

# Dixie State University Policy

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## 164 Non-Sex-Based Discrimination, Harassment, and Retaliation



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### **I. Purpose**

- 1.1 The University is committed to maintaining an environment in which every member of the University Community is treated with respect and dignity, equal opportunities are promoted, and discriminatory practices, including unlawful discrimination, are prohibited. This policy defines and prohibits Non-Sex-Based Discrimination, Harassment and Retaliation against any member of the University Community; establishes expectations to prevent misconduct; details how to report a violation of this policy; and outlines investigation, disciplinary, and due process procedures for addressing reported violations of this policy.

### **II. Scope**

- 2.1 This policy applies if both the Complainant and Respondent are University Community members; or
- 2.2 If the Respondent is a student or employee of the University; or
- 2.3 If the conduct is by, or involving, any University Community member, and occurs:
  - 2.3.1 On, or may have a continuing effect on, any premises owned, leased or controlled by the University; or
  - 2.3.2 In the context of any University-related or sponsored business, educational or other program or activity, regardless of location (including travel, research, conferences, or internship programs); or
  - 2.3.3 Through the use of University-owned or provided technology

resources; or

- 2.3.4 If the conduct has a nexus to the University, such as continuing adverse effect, or the creation or continuation of a hostile environment; or
- 2.3.5 Where otherwise required by law.
- 2.4 If a Respondent is affiliated with the University, but is not a student or employee of the University, the affiliated entity's procedures may apply to the investigation and any resulting action.
- 2.5 The University has authority to investigate an allegation under this policy if the University becomes aware of an allegation within 180 calendar days from the date the incident(s) occurred. For ongoing misconduct, if the University becomes aware of the alleged misconduct within 180 days of the last incident, the University may also consider investigating an incident that occurred prior to the last 180 days. Any complaint filed with the University after 180 days must include a statement of good cause explaining why the complaint was not filed within the 180-day period. The Director of Equity Compliance and Title IX (the Director) shall make a determination as to whether the statement of good cause is sufficient to permit an investigation to proceed.
  - 2.5.1 When the notice/complaint is affected by a significant time delay, the University will typically apply the policy and procedures in place at the time of the alleged misconduct.
- 2.6 If the Respondent is unknown or not a member of the University Community, the Office of Equity Compliance will assist individuals in identifying appropriate University resources and non-University resources and, at the individual's request, may assist in contacting law enforcement. In addition, the University may take other actions such as providing interim measures or accommodations to protect the individual and the University Community.
- 2.7 Withdrawal or Termination by a Respondent. If a Respondent employee resigns during an investigation, or a Respondent student withdraws or terminates enrollment, the University may decide to proceed with the investigation and resolution process. The University also reserves the right to impose sanctions on the former employee or student, such as limiting or conditioning their right to reapply, not providing references or placing notations on transcripts.

### III. Definitions

- 3.1 ***Adverse Actions:*** Any act or omission that results in a materially adverse

impact on the terms, conditions, and privileges of students, faculty, and staff, violates this policy when it is motivated by discrimination based on protected characteristics or in retaliation for protected activity. Adverse actions are not limited to denial of access to programs, services, or the provision of lesser services and do not necessarily involve the loss of money.

- 3.2 ***Alternate Resolution:*** An informal process by which a mutually agreed-upon resolution of an allegation of Non-Sex-Based Discrimination, Harassment, or Retaliation is reached.
- 3.3 ***Complaint:*** A report received by the University's Office of Equity Compliance and Title IX alleging non-sex-based discrimination, harassment, and/or retaliation.
- 3.4 ***Complainant:*** A member of the University Community who is alleged to have experienced non-sex-based discrimination, harassment, and/or retaliation.
- 3.5 ***Director:*** The University's Director of Equity Compliance or designee that is authorized and designated by the University to coordinate its efforts to comply with Title VII responsibilities under federal law.
- 3.6 ***Discrimination:*** Treating an individual or group differently or less favorably (e.g., denying rights, benefits, equitable treatment, or access to facilities available to others) on the basis of Protected Class.
- 3.7 ***Draft Investigative Report:*** A document issued by an investigator providing a summary of Complainant's allegations, Respondent's responses, relevant evidence, and material witnesses, as well as preliminary factual findings.
- 3.8 ***Final Investigative Report:*** A document issued by an investigator after each party's opportunity to review the Draft Investigative Report and evidence collected during the investigation, which fairly summarizes all relevant evidence, identifies material witnesses, and describes the investigation procedures.
- 3.9 ***Grievance Process:*** A formal process commenced by the filing of a Complaint, including formal investigation and presentation to a Policy 164 Adjudicator for determination as to whether a Respondent is responsible for a violation of this policy, and the issuance of any related sanction(s).
- 3.10 ***Harassment:*** Unwelcome or offensive behavior that is based upon an individual's or group's Protected Class. Harassment may include conduct that is verbal, written, or physical in nature. Harassment that creates a Hostile Environment is prohibited by this policy. A person is capable of engaging in

prohibited Harassment even if the person belongs to the same Protected Class as the individual or group targeted.

3.10.1 Conduct that may constitute Harassment includes, but is not limited to:

3.10.1.1 An epithet, slur, negative stereotyping, or threatening, intimidating or hostile act that relates to an individual's or group's protected class;

3.10.1.2 Placing on a wall, bulletin board, email, or elsewhere on University premises, material that shows hostility or aversion to an individual's or group's protected class;

3.10.1.3 Graphic, abusive, degrading, intimidating, or obscene jokes, comments, remarks or gestures directed at an individual based on protected class;

3.10.1.4 Physical contact or intimidation against an individual or group based on protected class;

3.10.1.5 Tease, trick, gossip, workplace slight, excluding an individual from a project or activity, and any other workplace act, or educational program or activity, including an omission taken because of a person's or group's protected class; or

3.10.1.6 Retaliatory harassment occurs when any similar conduct is done in retaliation for engaging in a protected activity.

3.10.2 If, following an investigation under this policy, unwelcome and offensive conduct is identified but does not currently constitute Harassment, the University may direct a Respondent to cease such conduct, if such conduct might constitute Harassment were it to continue or be repeated.

3.10.3 The forgoing definition of Harassment is not intended to limit academic freedom to discuss, teach, research, or publish regarding matters related to protected class. This policy does not prohibit authentic, civil discussions, or the holding of civil expressions of opinions. A person's disagreement with, or dislike for, a statement or expression is not proof that the statement or expression was threatening, intimidating, degrading, objectively offensive, or hostile.

3.11 **Mandatory Reporter:** Every University employee except if the employee is defined as a Confidential Resource.

- 3.12 ***Notice of Investigation:*** The written communication issued by the Title IX Coordinator apprising the parties of the University's initiation of an investigation following the filing of a Complaint.
- 3.13 ***Notice of Opportunity to Review Draft Investigative Report and Evidence:*** The written communication issued by an investigator to the parties at the conclusion of the initial investigation, apprising the parties and their Advisors of their equal opportunity to review and respond to evidence and the Draft Investigative Report.
- 3.14 ***Party:*** A Complainant or Respondent.
- 3.15 ***Policy 164 Adjudicator:*** An individual designated by the Director of Equity Compliance to (1) review the Final Investigative Report and factual evidence collected during the University's investigation; (2) to determine whether a policy violation occurred; (3) if applicable, to obtain from the Sanctioning Body the make finding(s) of a policy violation regarding the allegations and to issue the Written Determination to the parties.
- 3.16 ***Preponderance of Evidence:*** More likely than not, based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated this policy. This is the evidentiary standard used during investigation/review to determine if a policy violation occurred.
- 3.17 ***Protected Activity:*** Making a good faith report under this policy; filing an external complaint of non-sex-based discrimination, harassment or retaliation; opposing in a reasonable manner and consistent with University policy an action reasonably believed to constitute a violation of this policy; participating in proceedings involving a complaint under this Policy or under relevant law; or any other activity protected by federal or state civil rights law.
- 3.18 ***Protected Class:*** A group with a common characteristic who are legally protected from adverse treatment on the basis of that characteristic. For purposes of this policy, Protected Class characteristics include race, ethnicity, color, religion, age, national origin, physical or mental disability, veteran status, genetic information, or any other non-sex-based status protected under applicable federal, state, or local law. (Protected class characteristics of sex, gender, sexual orientation, gender identity, gender expression, or pregnancy are covered under University Policy 154). If a person discriminates against, harasses, or retaliates against an individual or group because that person believes the individual or group is a member of a Protected Class, that conduct may violate this policy even if the individual or group does not actually belong to that class.

- 3.19 **Reporter:** An individual who reports conduct alleged to be in violation of this policy but who is not the individual or group who allegedly experienced the prohibited conduct.
- 3.20 **Respondent:** An individual who has been accused of Non-sex-based Discrimination, Harassment, or Retaliation under this policy.
- 3.21 **Responsible Employee:** Every University employee except if the employee is defined as a Confidential Resource. A Responsible Employee is a Mandatory Reporter for purposes of this policy.
- 3.21.1 A Responsible Employee is not required to report information disclosed (1) at public awareness events (e.g., candlelight vigils, protests, or other public forums. In which individuals may disclose conduct prohibited by this policy); or (2) during an individual's participation as a subject in an Institutional Review Board-approved human subjects research project. The University may provide information about available resources at public awareness events, however, and an Institutional Review Board may, as it deems appropriate, require researchers to provide such information to all subjects of approved projects. If a Responsible Employee is unsure whether an event would be considered a public awareness event, the Responsible Employee should contact Office of Equity Compliance.
- 3.21.2 With the exception of student employees, students are not Mandatory Reporters, but are encouraged to report suspected violations of this policy.
- 3.22 **Retaliation:** Conduct against an individual or group involved in a Protected Activity or because of the individual or group's Protected Status. Retaliation can take many forms, including, but not limited to, an adverse action, violence, threat, and/or intimidation that would discourage a reasonable person (under similar circumstances and with similar identity as the Complainant) from engaging in a Protected Activity or as a result of Protected Status.
- 3.23 **Sanction:** A penalty or discipline imposed by the Sanctioning Board on a Respondent found to be in violation of this policy.
- 3.23.1 Sanctions for a Student Respondent: Sanctions may include, but are not limited to, educational activities or experiences, loss of privileges, restorative justice measures, service projects, substance abuse and/or mental health care referrals, suspension or expulsion. The Dean of Students or designee will serve as the Sanction Evaluator and provide the Hearing Panel with the Sanction Recommendation.

- 3.23.2 Sanction for an Employee Respondent: Consistent with University Policies 371 and 372, Sanctions may include, but are not limited to, verbal guidance, corrective discussion, disciplinary actions, administrative leave, suspension or dismissal.
- 3.24 *Sanctioning Board*: 3-5 University faculty or staff members who receive annual training on Protected Class Discrimination and Harassment.
- 3.25 *Supportive Measures*: Upon notice of alleged Non-Sex-Based Discrimination, Harassment and/or Retaliation, non-disciplinary, non-punitive, free of charge individualized services will be offered to the Complainant and/or the Respondent by the University as appropriate and reasonably available. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter Non-Sex-Based Discrimination, Harassment, and/or Retaliation.
- 3.25.1 At the time that supportive measures are offered, the Director will inform the Complainant, in writing, that the Complainant may file a Complaint with the University either at that time or in the future, if Complainant has not done so already.
- 3.25.2 The Director will ensure that a party's wishes are taken into account with respect to supportive measures and that the party's privacy is maintained as much as possible without impairing the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic impact on the parties as possible.
- 3.25.3 Supportive measures may include, but are not limited to: safety planning, counseling, medical, and/or other health care services, academic support, extensions of deadlines or other course or program-related withdrawals, campus safety escort services, mutual restrictions on contact between the parties, altering University work and/or housing assignments, referral to community-based service providers, visa and immigration assistance, student financial aid counseling, leaves of absence, referral to The Employee Assistance Program, increased security and monitoring of certain areas of the campus, and other similar measures.
- 3.25.4 The University 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

University to provide the supportive measures. Any other measures deemed appropriate and effectively implementing supportive measures.

- 3.26 **University Community Member:** A student, affiliate, administrator, faculty, volunteer, contractor, staff, trustee, vendor, customer, a visitor to the University, and a participant in a University-sponsored program, service or activity, independent contractors, volunteers, and guests or visitors to a university campus or any property owned or leased by the University.
- 3.27 **Third Party:** An individual who is not a member of the University Community.
- 3.28 **Witness:** An individual who may have information relevant to a report of prohibited conduct.

#### IV. Policy

- 4.1 Nondiscrimination Notice and Prohibition Against Non-Sex-Based Discrimination, Harassment, and Retaliation
  - 4.1.1 The University is committed to maintaining an environment in which every member of the University Community is treated with respect and dignity, equal opportunities are promoted, and discriminatory practices, including unlawful discrimination, are prohibited. The University does not tolerate harassment or unlawful discrimination against any member of the University Community due to any protected class under applicable law. The University prohibits retaliation against any member of the University Community who engages in a Protected Activity.
- 4.2 The following conduct (as defined in this policy) is prohibited:
  - 4.2.1 Non-Sex Based Discrimination;
  - 4.2.2 Harassment; and
  - 4.2.3 Retaliation.
- 4.3 Retaliation Reporting and Response: An act of alleged Retaliation should be reported immediately and will be promptly investigated. The University will take appropriate steps to protect individuals who fear they may be subjected to Retaliation. A complaint alleging Retaliation may be filed according to the same procedures for filing a complaint of Non-Sex-Based Discrimination or Harassment.
- 4.4 Nothing in this policy shall be interpreted as diminishing any party's rights



protected under the United States Constitution, or under Title VII of the Civil Rights Act of 1964 to be free from discrimination.

#### 4.5 Office of Equity Compliance and Reporting Information

4.5.1 How to Contact the Director: The University will provide and notify applicants for admission or employment, students, and employees with the name or title, office address, electronic mail address, and telephone number of the University employee designated as the Director; the nondiscrimination policy statement contained in Section 4.1 of this policy; the University's grievance procedures and grievance process contained in this policy, including how to report or file a Complaint of Non-Sex Based Discrimination, Harassment, and/or Retaliation; and, how the University will respond.

4.5.2 Dissemination of Office of Equity Compliance Information: The University will prominently display the contact information and policy statement described in 4.1 on the University's website and in each handbook or catalog that it makes available to applicants for admission and employment, students, and employees of the University.

4.5.3 How to Report an Equity Compliance concern: Any person may report Non-Sex Based Discrimination, Harassment, and/or Retaliation (whether or not the Director using any of the following methods:

4.5.3.1 In Person: Holland Centennial Commons Building, 579 (during University business hours);

4.5.3.2 By Mail: Addressed to the Title IX Coordinator, 225 South University Avenue, Holland Centennial Commons Building, 579 St. George, UT 84770;

4.5.3.3 By Email: [titleix@dixie.edu](mailto:titleix@dixie.edu);

4.5.3.4 Via Online Submission:  
[https://cm.maxient.com/reportingform.php?DixieStateUniv&layout\\_id=0](https://cm.maxient.com/reportingform.php?DixieStateUniv&layout_id=0); or

4.5.3.5 Via Other Means: By any other means that results in the Director receiving the person's verbal or written report.

4.6 Mandatory Reporting by a Responsible Employee: Any Responsible Employee must promptly report any concern of Non-Sex-Based Discrimination, Harassment and Retaliation to the Director via any of the reporting options

listed at <https://titleix.dixie.edu/>.

4.6.1 Exceptions to the Responsible Employee reporting requirement under Section 4.7.6 are:

- 4.6.1.1 Disclosures made in the course of academic work product consistent with the assignment (e.g. public speaking class, creative writing assignment, group work).
- 4.6.1.2 Others Who Should Report: All other University Community Members who become aware of Non-Sex-Based Discrimination, Harassment, or Retaliation should report such issues, with the consent of the alleged victim, to the Director
- 4.6.1.3 Who May Not Report: Licensed mental health counselors and medical professionals working within the scope of their licenses, or designated advocates authorized by the Director (Confidential Resources), generally may not report incidents of Non-Sex-Based Discrimination, Harassment, or Retaliation except with written consent, other than in instances of imminent danger or when the victim is a minor or vulnerable adult.

## 4.7 Confidentiality

- 4.7.1 The University maintains as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality does not impair the University's ability to provide the Supportive Measures.
- 4.7.2 Except as may be permitted by the federal Family Educational Rights and Privacy Act (FERPA), its regulations, or as required by Utah Government Records and Management Act (GRAMA), the federal Health Information Portability and Accountability Act (HIPAA), or other law, or to carry out the purposes of this policy including conducting any investigation, meeting, or judicial proceeding arising under this policy, the University keeps confidential the identity of any individual who makes a report of Non-Sex-Based Discrimination, Harassment, or Retaliation, including any individual who has filed a Complaint, any Complainant, any individual who has been reported to be in violation of this policy, any Respondent, and any witness. When a complaint alleging a violation of this policy is investigated, all parties to the investigation, including Witnesses, will be notified of the University's expectation of confidentiality. The University will only release information obtained in the course of an investigation on a

“need to know” basis to the extent permitted by this policy and applicable law and consistent with the University’s thorough investigation of the complaint.

- 4.7.3 Breaches of confidentiality will be reviewed and may be considered a violation of this policy subject to disciplinary action.
- 4.7.4 The University will protect confidential communications to designated University advocates authorized by the Director and protected under the Utah Campus Advocate Confidentiality Amendments (Utah Code § 53B-28-101 et seq.), where disclosure is not required by applicable federal law, including Title IX, Title VII, or the Clery Act, or consented to in writing.
- 4.8 Amnesty: An individual who makes a good faith report of Non-Sex-Based Discrimination, Harassment or Retaliation that was directed at the individual or another person or group, will not be sanctioned by the University for a violation of University policy related to the use of drugs or alcohol which the University discovers because of the report.
- 4.9 Disability Accommodation in the Formal Grievance Process
  - 4.9.1 The University is committed to providing reasonable accommodations and support to qualified students, employees or others with disabilities, to ensure equal access to the University’s Title IX process. Complainants, Respondents, and other participants may request accommodations necessary under the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act. Students needing such accommodations or support should contact the Disability Resource Center. Employees needing such accommodations should contact the Executive Director of Human Resources. The Disability Resource Center or Human Resources will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.
- 4.10 Rights of Complainant and Respondent Following a Report
  - 4.10.1 The Complainant and Respondent have equal rights:
    - 4.10.1.1 To be treated with dignity and respect by University employees;
    - 4.10.1.2 To take advantage of supportive measures;

- 4.10.1.3 To receive timely notice of proceedings, processes and outcome under this policy;
- 4.10.1.4 To have an Advisor present at any meeting or hearing under this policy;
- 4.10.1.5 To refuse to engage in informal resolution of a complaint;
- 4.10.1.6 To present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
- 4.10.1.7 To receive amnesty for certain student misconduct, such as drug and alcohol violations, that occurred ancillary to the complaint at hand and consistent with this policy;
- 4.10.1.8 To be free from retaliation for reporting violations of this policy or cooperating with an investigation;
- 4.10.1.9 To be informed in writing of the outcome or resolution of the complaint, any sanctions, and the rationale for the outcome, where permissible;
- 4.10.1.10 To exercise a right of appeal as afforded in this policy.

4.10.2 The Complainant shall have the right to:

- 4.10.2.1 At all times decide if or when to file a complaint, report to law enforcement, and determine whether to proceed with a complaint, at the individual's discretion.

4.10.3 The Respondent shall have the right to:

- 4.10.3.1 Be presumed not responsible for all allegations until found responsible for the alleged conduct by a hearing panel under this policy.

#### 4.11 Training

- 4.11.1 The University shall comply with federal law requirements for training of the Director, investigators, Policy 164 Adjudicators, Policy 164 Adjudicators, Appeal Examiners, and any person who facilitates an informal resolution process (jointly or in their respective roles) on:

- 4.11.1.1 the definitions of Non-Sex Based Discrimination, Harassment, and Retaliation;

- 4.11.1.2 the scope of this policy and procedures as it applies to the University's education programs and activities;
  - 4.11.1.3 reporting, confidentiality, and privacy requirements;
  - 4.11.1.4 definitions of all prohibited conduct under this policy and how to apply the definition of consent consistently, impartially, and in accordance with this policy;
  - 4.11.1.5 how to conduct an investigation;
  - 4.11.1.6 the University's Grievance Process including live hearing, appeal, and the informal resolution process;
  - 4.11.1.7 how to uphold fairness, equity, and due process;
  - 4.11.1.8 how to determine appropriate sanctions; and,
  - 4.11.1.9 how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias, including implicit bias.
- 4.11.2 Training materials will promote impartial investigations and adjudications of Complaints of Non-Sex-Based Discrimination, Harassment and Retaliation.
  - 4.11.3 The University will ensure investigators and Policy 164 Adjudicators are trained on how to determine issues of relevance of evidence.
  - 4.11.4 The University will ensure that investigators are trained in how to investigate thoroughly, reliably, and impartially, and on issues of relevance, in order to create an investigative report that fairly summarizes relevant evidence.
  - 4.11.5 Prevention and Education. This policy reflects the University's commitment to educate all of the members of the University community about the nature of Non-Sex-Based Discrimination, Harassment, and Retaliation. Additionally, the University's interest in providing protections available to all involved. The University is committed to prevention of discrimination through regular and ongoing education and awareness programs provided to the community.

#### 4.12 Recordkeeping

- 4.12.1 The Office of Equity Compliance and Title IX will maintain the

following records for a period of seven (7) years:

- 4.12.1.1 Each Non-Sex-Based Discrimination, Harassment, and/or Retaliation investigation including any Written Determination regarding responsibility, any audio, audiovisual recording, or transcript required by this policy, any Sanction(s) imposed on a Respondent, and any remedies provided to a Complainant designed to restore or preserve equal access to the University's education program or activity;
  - 4.12.1.2 Any appeal and the result; and
  - 4.12.1.3 Any informal resolution and the result.
- 4.12.2 For each report to the Director of Non-Sex-Based Discrimination, Harassment or Retaliation, in a University education program or activity against a person in the United States, the Office of Equity Compliance and Title IX must create, and maintain for a period of seven (7) years, a record of any action, including any Supportive Measures, taken in response to a report or Complaint of Non-Sex-Based Discrimination, Harassment or Retaliation. In each instance, the Office of Equity Compliance and Title IX must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If the University does not provide a Complainant with Supportive Measures, then the Office of Equity Compliance and Title IX must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.
- 4.13 Motivating Factor. A member of the University Community may establish discrimination by showing that a protected class or protected activity were motivating factors in the adverse action or harassment. Because many actions can have multiple or mixed motives, an institution or individual can defend claims by showing that the action would have occurred even in the absence of discrimination.
- 4.13.1 The University reserves the right to find a violation of this policy when the evidence shows that an individual's protected class or protected activities were a motivating factor behind an adverse action or harassment. Other factors and motives may be considered in

determining sanctions or remedies.

- 4.14 Standard of Proof. The University has a duty to promptly and thoroughly investigate a Complaint under this policy and, if necessary, to take appropriate remedial action. This process is not an adversarial process. The Policy 164 Adjudicator will decide, by a preponderance of the evidence, whether there is sufficient evidence to support a finding of a violation of this policy.
- 4.15 Overlap with other University Policies.
- 4.16 This policy recognizes overlap between the Student Rights and Responsibilities, employee handbook rules and other University policies. This policy takes precedence with respect to matters covered under this policy. When conduct can be charged under two policies (or a series of related act/transactions implicates violations of two), the policies can run concurrently where appropriate. However, if the alleged violation falls under Policy 154, it will take precedence.

## V. References

- 5.1 Utah Code Ann. § 13-7
- 5.2 Title VI and VII of the Civil Rights Act of 1964
- 5.3 The Age Discrimination in Employment Act of 1967 as amended in 1978
- 5.4 The Americans with Disabilities Act of 1990 as amended in 2008
- 5.5 Section 504 of the Rehabilitation Act of 1973
- 5.6 The Genetic Information Nondiscrimination Act of 2008
- 5.7 The Vietnam Era Veteran's Readjustment Assistance Act
- 5.8 The Family Education Rights and Privacy Act of 1974 (FERPA)
- 5.9 Executive Order 11246 regarding discriminatory practices in hiring and employment
- 5.10 41 CFR 60-1.35(c)
- 5.11 The Higher Education Act of 1965 as amended by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act
- 5.12 University Policy 154: Sex-Based Discrimination, Sexual Harassment, and Retaliation

## VI. Procedures

### 6.1 Initial Review of Reports under Policy 164

- 6.1.1 Initiating a Complaint Under this Policy. Once a Complaint alleging that this policy has been violated is received by the Office of Equity Compliance and Title IX, the Director will promptly contact the Complainant or Reporter to gather information about the allegation(s) and determine whether the alleged behavior constitutes a potential violation of this policy. If so, the Director will assign the case to an investigator(s) for investigation. If the Director determines that the allegations, even if found to be true, would not constitute a policy violation, the Director has the discretion to either close the investigation or address the allegations informally.
- 6.1.2 Complaints Against Director of Equity and Compliance. Any complaints of alleged violations of this policy against the Director of Equity and Compliance should be reported using the University's Whistleblower Hotline: <https://dixie.edu/report-a-concern/>
- 6.1.3 Conduct Prohibited Under this Policy. This policy is interpreted in a manner consistent with the applicable federal, state, and/or local laws prohibiting discrimination. However, the University reserves the right to find a violation of this policy even when the conduct does not rise to the level that would violate federal or state law.
- 6.1.4 The Director will determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
  - 6.1.4.1 If supportive and remedial response is preferred, the Director will communicate with the Complainant to identify Complainant's wishes, and the Director will then seek to facilitate implementation. No formal grievance process is initiated, though the Complainant may elect to initiate one later, if desired.
  - 6.1.4.2 If an Informal Resolution option is preferred, the Director assesses whether the reported concern is suitable for Informal Resolution and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
  - 6.1.4.3 If a formal Grievance Process is preferred, the Director



determines if the misconduct alleged falls within the scope of this policy:

6.1.4.3.1 If it does, the Director will initiate the Grievance Process and the investigation, directing the investigation to address: an incident, and/or a pattern of alleged misconduct, and/or a culture/climate issue, based on the nature of the complaint.

6.1.4.3.2 If it does not fall within the scope of Title IX, the Director determines that this policy does not apply and assesses which other University policies may apply, which resolution process may be applicable, and will refer the matter accordingly.

6.1.4.4 If the Complainant asks the Director not to pursue an investigation, the Director may not be able to honor this request if doing so would prevent the university from meeting its obligations and responsibilities as indicated throughout this policy.

6.1.5 Immediate Removal: The Director may use sole discretion, or confer with the University's Crisis Assessment Risk and Evaluation (CARE) team, to determine whether a Respondent must be removed from the University's education programs or activities on an emergency basis as an immediate threat to the physical health or safety of any student, employee or other individual arising from the allegations of misconduct. The Director may take immediate action when necessary to secure the physical health and/or safety of a Complainant. At the time that an Immediate Removal is imposed, the Director will inform the Respondent of the Immediate Removal action and the reason(s) for the action, and inform the Respondent that a meeting will take place to review the Immediate Removal.

6.1.5.1 Immediate Removal Meeting Procedures: As soon as practical, but no later than ten (10) University Business Days from the time the Immediate Removal is imposed, a meeting will take place between the Respondent, the Director, and a University police officer to review the Immediate Removal. The Respondent will have an opportunity at the meeting to demonstrate to the Director and the University police officer why the Immediate Removal should not continue. An Advisor for the Respondent may accompany the Respondent to this meeting as a support

person, but the Advisor may not actively participate in the meeting.

- 6.1.5.2 Based on reasonable evaluation of the information presented by the Respondent at the meeting, the Director will notify the Respondent within 48 hours of the meeting of the Title IX Coordinator's decision to remove, sustain, or modify the Immediate Removal.
- 6.1.5.3 Non-Student Employee Leave: A non-student employee Respondent may be placed on paid administrative leave in accordance with this policy.
- 6.1.5.4 The Title IX Coordinator must further assess the reported conduct for any Clery obligations, including issuance of a timely warning, and report to University Police or local law enforcement when necessary.

## 6.2 Grievance Process General Principles

- 6.2.1 Complainants, Respondents, and witnesses will be treated equitably and with respect throughout the grievance proceedings.
- 6.2.2 No Right to Confront Parties or Witnesses. The Director is not required to conduct evidentiary hearings as part of the Grievance Process. As a result, parties should not anticipate or expect direct confrontation or an opportunity to cross-examine other parties or witnesses. The Director may, in some cases, meet with the parties together if this will facilitate an Informal Resolution.
- 6.2.3 The Director, investigator, Policy 164 Adjudicator, Sanctioning Board member, and the Appeal Examiner will evaluate all relevant evidence, both inculpatory and exculpatory, objectively and determine credulity without respect to a person's status as Complainant, Respondent, or witness.
- 6.2.4 Any deadlines or timeframe provided in this policy may be extended by the Director for good cause with written notice to the parties citing the reason(s) for the extension. Good cause may include considerations such as the absence of a party, a party's Advisor, or witness; concurrent law enforcement activity or investigation; or the need for language assistance or accommodation of disabilities.
  - 6.2.4.1 A party may also submit a request for a temporary delay or

limited extension to the Director. Any such request should include the reason(s) for the request. If the request is reasonable under the circumstances, the Director may grant the request in whole or part. If no good cause exists, the Director may deny the request in writing.

- 6.2.5 Any person designated as a Director, investigator, Policy 164 Adjudicator, Sanctioning Board member, or Appeal Examiner shall be free of conflict of interest or bias for or against Complainants or Respondents generally or individually. All potential instances of bias or a conflict of interest must be promptly reported to the Director. The Director will determine whether actual bias or an actual conflict of interest exists by consulting with appropriate University representatives. If the Director is the individual alleged to have bias or a conflict of interest, then a representative from Human Resources will determine whether any bias or conflict of interest exists.
- 6.2.6 Respondents, Complainants, and witnesses shall not knowingly make materially false statements or knowingly submit materially false information during the Grievance Process. However, a determination regarding responsibility alone is not sufficient to conclude that any individual proffered a material falsehood.
- 6.2.7 Complainants and Respondents shall have Supportive Measures made available and be given the opportunity to request modifications necessary for physical and/or emotional safety.
- 6.2.8 After a Complaint is received by the Director, the Complainant shall be instructed by the Director to provide and preserve all corroborating or potentially relevant evidence in any format, and to provide a list of potential witness names and contact information if available.
- 6.2.9 The University will provide written notice (with sufficient time for the party to prepare to participate) of the date, time, location, participants, and purpose of all investigative interviews or other meetings.
- 6.2.10 Consolidation of Complaints. The University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Non-Sex-Based Discrimination, Harassment, or Retaliation arise out of the same facts or circumstances.

### 6.3 Informal Resolution

- 6.3.1.1 Informal Resolution: At any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The decision to enter into an informal resolution will be a voluntary option to the parties, and neither party may be required to enter into such.
- 6.3.1.2 Informal resolution can include two different approaches: when the parties agree to resolve the matter through an Alternate Resolution [including mediation, restorative practices, etc.]; or when the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.
- 6.3.1.3 To initiate an Informal Resolution, a Complainant needs to submit a Complaint as defined above. If a Respondent wishes to initiate an Informal Resolution, they should contact the Director to so indicate.
- 6.3.1.4 It is not necessary to pursue an Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in an Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.
- 6.3.1.5 Prior to implementing Informal Resolution, the University will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.
- 6.3.1.6 The Director will obtain voluntary, written confirmation that all parties wish to resolve the matter through an Informal Resolution before proceeding and will not pressure the parties to participate in an Informal Resolution.

## 6.3.2 Alternate Resolution

- 6.3.2.1 The Complainant and the Respondent must consent in writing to the use of Alternate Resolution.
- 6.3.2.2 The Title IX Coordinator must approve the use of Alternate Resolution. The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution may be most successful for all parties: the parties' amenability to Alternate

Resolution; likelihood of potential resolution, taking into account any power dynamics between the parties; the parties' motivation to participate; civility of the parties; cleared violence risk assessment/ongoing risk analysis; disciplinary history; whether an emergency removal is needed; skill of the Alternate Resolution facilitator with this type of complaint; complaint complexity; emotional investment/intelligence of the parties; rationality of the parties; goals of the parties; adequate resources to invest in Alternate Resolution (time, staff, etc.)

6.3.2.3 The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by this resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

### 6.3.3 Respondent Accepts Responsibility for Alleged Violation(s)

6.3.3.1 The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Director will determine whether Informal Resolution can be used according to the criteria in that section above.

6.3.3.2 If Informal Resolution is applicable, the Director will determine whether all parties and the Recipient are able to agree on responsibility, sanctions, and/or remedies. If so, the Director implements the accepted findings that the Respondent is in violation of Recipient policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

6.3.3.3 This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

6.3.3.4 When a resolution is accomplished, the appropriate sanction or

responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

## 6.4 Investigation

6.4.1 Every University Community Members must fully cooperate with the University's procedures and processes under this policy. At a minimum, the University's Grievance Process may proceed to conclusion even in the absence of a party's participation. In some cases, a refusal to cooperate by a University Community Member could result in discipline.

6.4.2 After the Director determines that a Complaint falls within the scope of this policy, the University will conduct a thorough, impartial investigation by interviewing witnesses, collecting documentary evidence, and preparing a written report of relevant evidence. The purpose of the investigation is to gather all relevant evidence and for the investigator to determine whether the policy has been violated. The burden of gathering evidence rests on the University and not on the parties. The University reserves the right to retain an external investigator to conduct the investigation following this policy. The University strives to complete all investigations within forty-five (45) University Business Days, however, an investigation may take longer depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, and/or other circumstances. The process proceeds as follows:

6.4.2.1 The Director will assign the Complaint to an internal or external investigator who has no apparent conflict of interest. If the Director determines an assigned investigator has a conflict of interest or is otherwise unavailable, the Director may assign the Complaint to an external or backup investigator.

6.4.3 Notice of Investigation: Upon initiating an investigation, the University will provide the parties with a Notice of Investigation, with copies of this policy and the Complaint attached or enclosed. The Notice of Investigation shall include:

6.4.3.1 A meaningful summary of the allegations; the identity of the parties involved (if known),

6.4.3.2 The precise misconduct being alleged,

- 6.4.3.3 The date and location of the alleged incident(s) (if known),
  - 6.4.3.4 The specific policy sections implicated,
  - 6.4.3.5 A description of the applicable procedures,
  - 6.4.3.6 A statement of the potential sanctions/response actions that could result
  - 6.4.3.7 A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination;
  - 6.4.3.8 A statement about the University's policy on retaliation;
  - 6.4.3.9 Information about the privacy of the process;
  - 6.4.3.10 A statement informing the parties that this policy prohibits knowingly false statements, including knowingly submitting false information during the resolution process;
  - 6.4.3.11 Information on the right for each party to have an advisor of their choosing;
  - 6.4.3.12 The Name of the investigator(s);
  - 6.4.3.13 Instructions to notify the Director upon receipt of the Notice of Investigation of any perceived conflict of interest or bias that the assigned investigator(s) may have; and
  - 6.4.3.14 An instruction to preserve any evidence that may be related to the allegations.
- 6.4.4 Amendments and updates to the Notice of Investigation may be made as the investigation processes and more information becomes available regarding the addition or dismissal of various charges.
- 6.4.5 The Notice of Investigation will be written and may be delivered by one or more of the of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official University records, or emailed to the parties' University-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. If the Notice of Investigation is delivered in person, Respondent will be instructed to schedule an initial interview at a later date in order to allow Respondent sufficient time to

secure an advisor and fully consider and understand the information provided in the notice.

- 6.4.5.1 An investigator may conduct all, or any part of, an investigation by in-person communication or the use of audio or virtual technology.
- 6.4.5.2 Flexibility of Investigative Process. Most investigations will follow similar steps, but the order of those steps may vary. For example, a Complainant's witnesses or Respondent's supervisor might be interviewed before the Respondent.
- 6.4.5.3 The University shall not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains the party's voluntary, written consent to do so for the grievance process under this policy.
- 6.4.5.4 Advisors and witnesses will be instructed by the investigator(s) that the University expects them to maintain the privacy of the information learned due to their participation in the process. This information may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University.
- 6.4.6 The University presumes the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- 6.4.7 Advisors and witnesses will be instructed by the investigator(s) that the University expects them to maintain the privacy of the information learned due to their participation in the process. This information may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University.
- 6.4.8 The University will provide an equal opportunity for the parties to identify relevant witnesses for the investigator to contact, including fact and expert witnesses, and to provide other inculpatory and exculpatory evidence to the investigator.
- 6.4.9 Each party may choose to be accompanied by an advisor of the party's



choice, who may be an attorney (at the party's own expense), to any related meeting or proceeding during the investigation. The advisor may not disrupt a meeting or other proceeding or speak on behalf of the party. If an advisor is disruptive, the advisor may be excluded from the meeting and future meetings or proceedings.

- 6.4.10 At any time before or during the investigation, an investigator may recommend that the University provide supportive measures to a party or witness. Any individual's intentional interference with supportive measures may be considered retaliation and a separate violation of this policy.
- 6.4.11 If either party fails to participate in the investigation, the investigator may make factual findings without the response of that party, or the University may dismiss the case.
- 6.4.12 The University will provide each party an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Complaint, including all inculpatory or exculpatory evidence, so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation.
- 6.4.13 If, at any point during the investigation, the University determines a need to investigate allegations not included in the Complaint, the University must provide notice of additional allegations to the parties, if known.
- 6.4.14 Upon conclusion of the investigative fact-finding, the investigator shall prepare a Draft Investigative Report that summarizes the Complainant's allegations and Respondent's responses, summarizes the relevant evidence and the material witnesses supporting or opposing the allegation(s), and includes preliminary factual findings.
- 6.4.15 Before the Draft Investigative Report is finalized as the Final Investigative Report, the investigator(s) will issue a written Notice of Opportunity to Review Draft Investigative Report and Evidence, attaching a copy of the Draft Investigative Report in a secure electronic format or hard copy format, which notifies the parties and their advisors of their equal opportunity to review any evidence obtained as part of the investigation that is directly related to the allegations in the Complaint, including evidence upon which the University does not intend to rely in reaching a determination of responsibility, whether

inculpatory or exculpatory.

- 6.4.16 Any effort, by either party to distribute, reproduce, alter, post, or otherwise circulate the investigate summary may result in a charge of a violation of this policy and may result in a policy violation determination and sanctions pursuant to the process outlined in this policy.
- 6.4.17 The parties may submit a written response to the investigator via email within ten (10) University business days of the date of the Notice of Opportunity to Review Draft Investigative Report and Evidence. This is the parties' final opportunity to submit any additional information or witnesses. In the absence of good cause, an investigator shall not consider information discoverable through the exercise of due diligence that is not provided to the investigator(s) at this juncture. The investigator(s) shall consider any written response, information, or evidence provided by the parties.
- 6.4.18 Within seven (7) University Business Days of the expiration of the parties' written response period, the investigator(s) will prepare a proposed Final Investigative Report that contains a statement of the factual allegations and the positions/responses of the parties; fairly summarizes all of the relevant evidence; contains the names of material witnesses; and describes the procedural steps taken during the investigation. If an investigation involves multiple complainants, multiple respondents, or both, the investigator(s) may prepare a single Final Investigative Report.
- 6.4.19 Within three (3) University Business Days of the investigator's completion of the proposed Final Investigative Report, the Director or designee shall review the report to ensure compliance with this policy.
- 6.4.20 Once the Final Investigative Report is approved by the Director or designee, it shall be provided by the investigator to the parties, in a secure electronic transmission or hard copy format and simultaneously submitted to the Policy 164 Adjudicator.

## 6.5 Written Determination

- 6.5.1 The Policy 164 Adjudicator will review the Final Investigative Report and may review the evidence provided to the investigator during the investigation. After reviewing, the Policy 164 Adjudicator shall make a finding based on the Preponderance of the Evidence with respect to

each alleged policy violation. Each finding will be one of the following: “responsible”, “not responsible” or “insufficient evidence”.

6.5.2 The Policy 164 Adjudicator will the prepare the Written Determination which must include:

6.5.2.1 Identification of the allegations potentially constituting a violation of this policy;

6.5.2.2 A description of the procedural steps taken from the receipt of the Complaint through the Written Determination, including any notifications to the parties, interviews with the parties and witnesses, and methods used to gather other evidence;

6.5.2.3 Findings of fact supporting the Written Determination;

6.5.3 Conclusions regarding the application of this policy to the facts;

6.5.3.1 A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.

6.5.3.2 The University’s procedures and permissible bases for the Complainant and Respondent to appeal.

6.5.4 The Policy 164 Adjudicator will provide the Written Determination to the Director and to the parties simultaneously via email within ten (10) University Business Days of receipt of the Final Investigative Report from the Director.

6.5.5 The Written Determination regarding responsibility becomes final when the Appeal Outcome is final or the time to appeal has passed without an appeal being filed. If the Policy 164 Adjudicator determines that the findings of fact do no support a violation of this policy, the Complainant may appeal this determination to an Appeal Examiner as outline in Section 10 of this policy. If the Policy 164 Adjudicator determines that the findings of fact do support the determination of a violation of this policy, Respondent may appeal this determination to an Appeal Examiner(s) after the issuance of the sanctioning decision.

## 6.6 Sanctions

### 6.6.1 Sanctions for Students

6.6.1.1 In cases where the Respondent is a student and a policy violation has been determined, a copy of the Final Investigative Report and

the Written Determination will be sent to the Dean of Students or designee. The Dean of Students or designee will convene a Sanctioning Board to determine appropriate sanctions. The Dean of Students or designee will use their best efforts to complete the sanctioning process within ten (15) University Business Days.

6.6.1.2 The Sanctioning Board will set a date for a Sanctioning Conference. The Sanctioning Board will consist of 3-5 University faculty or staff members who receive annual training on Protected Class Discrimination and Harassment.

6.6.1.2.1 The Dean of Students or designee will send a copy of the Final Investigative Report and Notice of Sanctioning Conference to the Complainant and the Respondent via email no later than ten (10) University Business Days prior to the Sanction Conference date. Complainant and Respondent are notified in the Notice of Sanctioning Conference that they have an opportunity to meet individually with the Dean of Students or designee for a Pre-Sanctioning Conference meeting.

6.6.1.2.2 Each party has two (2) University business days from the date the Notice of Hearing is emailed to challenge any of the Sanctioning Board members on the ground of perceived bias. To challenge a Sanctioning Board member, a party must submit a concise written statement (no more than one page) stating the reason(s) for the challenge and why the Sanctioning Board member is perceived to be biased against the party. The Dean of Students or designee will review any challenges received and determine if the challenged Sanctioning Board member needs to be replaced.

6.6.1.3 Pre-Sanctioning Conference Procedures

6.6.1.3.1 Each party may contact the Office of the Dean of Students to arrange a Pre-Sanctioning Conference meeting with the Dean of Students or designee. The non-redacted Final Investigation Report and the Written Determination may be viewed in person by either party at the party's Pre-Sanctioning Conference meeting.

6.6.1.3.2 Both parties may submit a written impact statement to the

Sanctioning Board, due at least five (5) University business days prior to the day of the Sanctioning Conference.

- 6.6.1.3.3 A Pre-Sanctioning Conference packet will be made available to both parties and the Sanctioning Board members at least two (2) University business days prior to the scheduled Sanctioning Conference.

## 6.6.2 Advisors

- 6.6.2.1 Each party is permitted one (1) advisor to accompany the party at the Sanctioning Conference. No less than two (2) University Business Days prior to the Sanctioning Conference, each party intending to have an Advisor present at the Sanctioning Conference must submit to the Dean of Students or designee written notice identifying who will accompany them as their advisor. The role of advisors is limited to the applicable provisions of this policy.

## 6.6.3 Sanctioning Conference

- 6.6.3.1 Participation in the Sanctioning Conference is voluntary for both Complainant and Respondent. The Sanctioning Conference will proceed with or without participation of the parties.
- 6.6.3.2 Each party present will have an opportunity to make a brief (no more than ten (10) minutes) verbal statement to the Sanctioning Board.
- 6.6.3.3 The Sanctioning Evaluator may ask questions of each party present at the Sanctioning Conference.
- 6.6.3.4 Parties will not be in the Sanctioning Conference room at the same time. When a party is not in the Sanctioning Conference room, that party will be able to listen to the Sanctioning Conference proceedings via phone from a separate room.
- 6.6.3.5 The Sanctioning Board will deliberate regarding the appropriate sanction(s) for the violation of this policy. Sanctions may include, but are not limited to, educational activities or experiences, loss of privileges, restorative justice measures, service projects, substance abuse and/or mental health care referrals, suspension or expulsion. Decisions of the Sanctioning Board are determined by a simple majority vote. The Dean of Students or designee may

provide the Sanctioning Board with University precedent in similar cases, as well as Respondent's history of conduct and prior sanctions, if any.

6.6.4 Within ten (10) University business days after the Sanctioning Conference, the Sanctioning Board chair will notify the Director or designee in writing of the sanctions imposed by the Sanctioning Board. The Director or designee will then notify the parties via email of the Sanctioning Board's Decision within two (2) University business days of receiving such notification from the Sanctioning Board.

#### 6.6.5 Sanctions for Employees

6.6.5.1 In cases where the Respondent is a University employee and the Policy 164 Adjudicator determines a policy violation occurred, a summary of findings will be provided to the Executive Director of Human Resources (or designee) and the Respondent's supervisor who will together, in consultation with the Executive Director of Institutional Compliance and Ethics, determine what, if any, disciplinary action is warranted. If disciplinary action is proposed, Human Resources will assist the supervisor in initiating the applicable disciplinary process. Disciplinary and appeal process for University employees are addressed in the following policies:

6.6.5.1.1 Policy 371: "Faculty Termination"

6.6.5.1.2 Policy 372 "Corrective and Disciplinary Action"

#### 6.7 Appeals

6.7.1 Either party may appeal the Written Determination and/or the Sanctions. The Appeal Outcome is final.

6.7.2 A party may appeal the finding of responsibility or a sanction for any of the following reasons:

6.7.2.1 A substantive procedural error occurred in the investigation or hearing process that significantly impacted the outcome reflected in the Written Determination. A mere deviation from investigative procedures is not a basis for appeal unless significant prejudice is alleged to have resulted due to the procedural deviation.

- 6.7.2.2 New evidence that was not reasonably available at the time of the issuance of the Written Determination or dismissal, which could substantially impact either the determination of whether a violation of this policy occurred or the severity of the sanction.
- 6.7.2.3 The Director, the investigator(s) or the Policy 164 Adjudicator had a conflict of interest or substantiated bias that affected the outcome.
- 6.7.2.4 The outcome was clearly erroneous based on the facts and evidence provided to the Policy 164 Adjudicator.
- 6.7.2.5 The sanctions imposed are substantially disproportionate to the severity of the policy violation(s).
- 6.7.3 The Director must receive a party's written Notice of Appeal within then (10) University Business Days after the issuance of the Written Determination or, in the case there is a finding of responsibility, the Sanctioning Board's decision. The Notice of Appeal must outline the ground(s) for the appeal and attach any supporting documentation.
- 6.7.4 Within five (5) University Business Days of the receipt of an appeal, the Director will notify all parties:
  - 6.7.4.1 That a Notice of Appeal has been filed;
  - 6.7.4.2 An Appeal Examiner(s) has been assigned to consider the appeal;
  - 6.7.4.3 Contact information for the Appeal Examiner(s);
  - 6.7.4.4 That the Director has confirmed that the Appeal Examiner(s) has no known conflict of interest;
- 6.7.5 Within ten (10) University Business Days of the Director sending such notice to the parties, each party may submit a Written Statement on Appeal to the Appeal Examiner(s) supporting or challenging the Written Determination.
- 6.7.6 The Appeal Examiner(s) may review the parties' Written Statements on Appeal, Written Determination, Final Investigative Report, and all evidence collected during the investigation.
- 6.7.7 The Appeal Examiner(s)'s Written Decision on Appeal may affirm or modify the Written Determination, remand the decision to the Policy 164 Adjudicator, order a new investigation, or overturn the Written

Determination in whole or in part.

6.7.8 The Appeal Examiner(s)'s Written Decision on Appeal is final and concludes the University's process under this policy.

6.7.9 Appeal Examiner(s) Composition:

6.7.9.1 A single impartial external Appeal Examiner selected by the University; or

6.7.9.2 Appeal Examiner Panel Chair: One pool member will be randomly selected to chair each Appeal Examiner Panel as necessary; each can vote when selected as chair; each cannot concurrently serve as a chair or member of any other appeal board committee currently convened. Chairs may recuse themselves from any appeal board for any potential conflict of interest or potential bias.

6.7.9.3 An Appeal Examiner Panel comprised of four University employees: two full-time, tenured faculty members and two full-time staff members selected jointly by the Title IX Coordinator, the Faculty Senate, and the Staff Association to serve a three (3)-year, staggered term, who will have full voting rights.

6.7.9.4 Appeal Examiner Panelists: A pool of six University employees, three full-time, tenured faculty and three full-time staff will be selected jointly by the Title IX Coordinator, the Faculty Senate, and the Staff Association to serve staggered three (3) year terms as part of an appeal board pool. Three members will be randomly selected to serve on a specific board from the member pool and the chair pool, with each member having the right of recusal for any potential conflict of interest or potential bias.

6.8 Support Services

6.8.1 Both Complainant and Respondent will be given information regarding support services, including confidential counseling for students and/or employees. The Coordinator will assist both parties to ensure that they have access to all available resources.

6.8.1.1 Office of Equity Compliance and Title IX  
[titleix@dixie.edu](mailto:titleix@dixie.edu)  
435-652-7731



- 6.8.1.2 Office of Ombuds  
[ombuds@dixie.edu](mailto:ombuds@dixie.edu)  
Cox 215
- 6.8.1.3 LGBTQ+ Resource Center  
[lgbtq@dixie.edu](mailto:lgbtq@dixie.edu)  
435-652-7753  
Browning Learning Resource Center #207
- 6.8.1.4 AVP for Campus Diversity & Inclusion Center Director  
[tasha.toy@dixie.edu](mailto:tasha.toy@dixie.edu)  
435-652-7735  
Browning 211
- 6.8.1.5 Booth Wellness Center  
435-652-7755  
1037 E. 100S.
- 6.8.1.6 National Suicide Prevention Hotline  
1-800-273-TALK
- 6.8.1.7 Crisis Text Line  
Text 'Home' to 741741
- 6.8.1.8 University Police  
435-627-4300

## VII. References – N/A

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Policy Owner: Office of the General Counsel

Policy Steward: Director of Equity Compliance / Title IX Coordinator

History:

Approved 8/13/2020