



## **Procedures for Title IX Sexual Harassment**

**Policy:** [Title IX Sexual Harassment Policy](#)

**Contact Information:** Title IX Coordinator at [TitleIX@Averett.edu](mailto:TitleIX@Averett.edu) or (434) 791-7244

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### **I. Defined Terms**

Terms capitalized throughout this document have the meanings assigned to them in the Title IX Sexual Harassment Policy.

### **II. Procedural Requirements**

This document outlines the steps the University will take when a report of Sexual Harassment is received and if a Formal Complaint is signed. For information about University requirements during the steps outlined below, please see the Title IX Sexual Harassment Policy (Section VIII).

### **III. Reporting Prohibited Conduct**

The University respects the right of a Complainant to decide whether they wish to pursue a resolution through this process and/or whether they wish to report to law enforcement. Because conduct prohibited by this Policy may in some instances constitute both a violation of University policy and criminal activity, and because University processes are not a substitute for instituting legal action, the University encourages individuals impacted by Sexual Harassment to report to University officials *and* to law enforcement, where appropriate. Individuals who experience Sexual Harassment have the right not to report to campus officials or to law enforcement authorities, as well. A Complainant may pursue resolution under the Title IX Sexual Harassment Policy and report to law enforcement simultaneously.

The Title IX Coordinator will assist a Complainant in reporting to law enforcement and/or obtaining an order of protection, if the Complainant wishes.

A report of an incident to the University does not automatically initiate a formal process but will enable persons affected to access Supportive Measures and resources and to receive information about their rights and options.

Reports of Sexual Harassment may be made using any of the following options:

- File a report with or give verbal or written notice to the Title IX Coordinator, Deputy Title IX Coordinator, or an Official with Authority. Reports can be made at any time via the phone numbers, email addresses, or mailing addresses listed in the "[Reporting Sexual Misconduct](#)" document or in person during normal business hours.

- Report online using the Advocate Title IX Reporting form: [https://averett-advocate.symplicity.com/titleix\\_report/index.php/pid584018](https://averett-advocate.symplicity.com/titleix_report/index.php/pid584018).

Reports may be made anonymously using the link above, but the University may be limited in its response.

Reporting requirements of University employees can be found in the Title IX Sexual Harassment Policy.

#### **IV. Initial Response to Reports**

Promptly upon receipt of a report, the Title IX Coordinator or Deputy Coordinator will take the following steps:

- Contact the Complainant to offer Supportive Measures, regardless of whether a Formal Complaint is filed, and to explain the process for filing a Formal Complaint, and to describe the resolution processes.
- Conduct an initial assessment to determine whether the allegations meet the definition of Sexual Harassment under Averett's Title IX Sexual Harassment Policy and fall within the scope of Title IX. If not, the report will be referred to the appropriate University office for review under other University policies and procedures.

#### **V. Interim Actions**

Following the receipt of a report and at any point during and, in some cases, after the resolution of a Formal Complaint, the Title IX Coordinator or an appropriate administrator will determine which, if any, of the following measures and/or actions should be taken:

##### **A. Supportive Measures:**

The Title IX Coordinator is responsible for implementing reasonable and appropriate supportive measures for both Complainants and Respondents.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures as determined to be appropriate to protect and support the parties.

Supportive Measures may be modified at the request of the parties at any time, even after a Formal Complaint is resolved.

##### **B. Interim Responsive Measures**

###### **i. Emergency Removal**

The University may act to remove a Respondent entirely or partially from its education program or activities on an emergency basis. Emergency Removal determinations will be made by the University's Threat Assessment Team.

In all cases in which an Emergency Removal is imposed, the student, employee, or two representatives from a student organization will be provided notice of the action and the option to request to meet with the Title IX Coordinator prior to the action being

imposed, or as soon thereafter as reasonably possible, to show cause why the action should not be implemented or should be modified.

The sole purpose of the meeting is to determine whether the Emergency Removal is appropriate. If a Respondent does not request this meeting within three business days of notice of the removal, objections to the Emergency Removal will be deemed waived. There is not appeal process for emergency removal decisions.

**ii. Administrative Leave**

The University may place a non-student employee Respondent on administrative leave after a Formal Complaint has been filed against the Respondent. Administrative Leave is meant for non-emergency situations.

**VI. Initiation of Resolution Procedures**

**A. Advisors**

Each party may be accompanied by no more than one Advisor to any meeting or proceeding related to the resolution of a report under the Title IX Sexual Harassment Policy. Other than at a live hearing for the sole purpose of conducting cross-examination, an Advisor may not speak on behalf of a party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings. The University will not unduly delay the scheduling of meetings or proceedings based on an Advisor's unavailability.

**B. Formal Complaint**

If a Complainant wishes to file a Formal Complaint, the Title IX Coordinator will provide a Formal Complaint form to the Complainant. The Title IX Coordinator will review signed forms to ensure that all necessary information is included. In some cases, the Title IX Coordinator may sign a Formal Complaint when a Complainant chooses not to.

The Title IX Coordinator, in their discretion, may consolidate Formal Complaints when the allegations of Sexual Harassment arise out of the same facts or circumstances. Consolidation is permitted if there are multiple Formal Complaints against one or more Respondents by multiple Complainants or by the same Complainant.

The Title IX Coordinator will review all Formal Complaints to determine whether the reported conduct falls within the scope of Averett's Title IX Sexual Harassment Policy.

**C. Dismissal**

When a Formal Complaint is dismissed, the Title IX Coordinator will promptly and simultaneously send written notice of the Dismissal and the reasons for the Dismissal to the parties.

Either party may file an appeal from a Dismissal determination within 5 business days of the notice of Dismissal. Appeals should be submitted to the Title IX Coordinator.

- For cases with a student Respondent, the Title IX Coordinator will provide the appeal to the Chief Financial Officer or the Vice President of Academic Affairs or their designee, who shall render a final decision on the appeal.
- For cases with a faculty Respondent, the Title IX Coordinator will provide the appeal to the Chief Financial Officer or their designee, who shall render a final decision on the appeal.

- For cases with a staff Respondent, the Title IX Coordinator will provide the appeal to the Vice President of Academic Affairs or their designee, who shall render a final decision on the appeal.

**D. Notice to Parties**

After receiving a Formal Complaint, the Title IX Coordinator will provide a written notice of allegations simultaneously to the known parties.

Amendments and updates to the notice of allegations may be made throughout the process as more information becomes available.

**E. Initial Meeting with Respondent**

The Title IX Coordinator generally will meet with the Respondent following the filing of a Formal Complaint. The Title IX Coordinator will offer Supportive Measures and provide information about the resolution processes.

**VII. Informal Resolution Process**

At any time after a Formal Complaint is filed and before there has been a determination regarding responsibility, the parties may elect to utilize an informal resolution process.

Informal resolution is available for resolution of any Formal Complaint unless the Respondent is an employee and the Complainant is a student *or* the Title IX Coordinator determines that informal resolution is not an appropriate mechanism for resolving the Formal Complaint.

**A. Participation**

Either party may withdraw from the informal resolution and resume for the formal resolution process, unless the parties have reached a binding agreement.

In order to initiate the informal resolution process, both parties must sign a statement indicating that they are participating voluntarily, they understand that use of informal resolution is not an admission of responsibility by the Respondent and the process will not conclude with a finding of “Responsible” or “Not Responsible,” can withdraw from informal resolution at any time before a final agreement is reached, and agree to submit all allegations contained in the Formal Complaint to informal resolution.

Once the parties agree to Informal Resolution, they are expected to participate fully. If either party fails to participate, the Title IX Coordinator may direct the Formal Complaint proceed under the Formal Resolution Process.

**B. Notice**

The Title IX Coordinator will provide concurrent written notice to the Complainant and Respondent detailing the requirements of the Informal Resolution Process and information about the parties’ rights and responsibilities.

**C. Resolution**

The resolution may include mediation, restorative justice, and/or a variety of interventions and remedies. If an agreement is acceptable to both parties and to the University, the terms of the agreement will be put in writing for both parties and the facilitator to sign. Once the agreement is signed, the Formal Complaint is closed.

If the informal resolution process is unsuccessful, the Formal Resolution Process will resume.

## **VIII. Formal Resolution**

### **F. Investigation**

University appointed Investigator(s) shall make best efforts to collect all relevant evidence within 30 business days following the notice of allegations.

The Complainant and Respondent will be asked to provide to the Investigator(s) a list of witnesses and how the witnesses are relevant to the allegations and a list of questions that they would like the Investigator(s) to ask of the other party and the witnesses.

Investigators will conduct interviews with the Complainant, Respondent, and witnesses; collect and preserve relevant evidence; provide parties and opportunity to review and verify the accuracy of interview summaries; and write a comprehensive investigation report that fairly and objectively summarizes relevant evidence.

- **Evidence**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

### **G. Investigation Report**

At the conclusion of the investigation, the Title IX Coordinator will make the draft investigation report available to both parties and will provide ten business days for the parties to review and respond to the report.

During the review and response period, the parties may meet with the Investigator(s), submit additional comments and information to the Investigator(s), identify any additional witnesses or evidence for the Investigator(s) to pursue, and submit any further questions that they believe should be directed by the Investigator(s) to the other party or any witness.

The Investigator(s) will review any responses submitted during the review and response period and determine any additional steps that should be taken before finalizing the report. The final report will be available to both parties for at least ten business days prior to the commencement of a hearing.

Due to the sensitive nature of the information in this report, neither the parties nor their Advisors may copy, remove, photograph, print, image, record or in any other manner duplicate or remove the information provided. The Complainant and Respondent may not make copies of the draft investigative report. All parties to whom the draft investigative report is distributed pursuant to Averett's Title IX Sexual Harassment Policy and procedures must maintain it in confidence (even after the resolution of the complaint); the draft investigative report may only be disclosed as is contemplated by this Policy.

## H. Hearing

A live, virtual hearing shall be scheduled at least ten business days, as soon as is practicable, following the delivery of the final investigation report.

- **Hearing Officer:** The hearing officer presides over the hearing. The hearing officer is responsible for explaining and answering any questions about the hearing; determining the relevancy of questions; determining the order of testimony for the parties and witnesses; and making a determination regarding responsibility based on an objective evaluation of all relevant evidence provided during the investigation and hearing.
- **Participation:** Both parties have a right to participate in the hearing. A party's or witness' absence or refusal to answer questions cannot be used as the sole basis for a determination regarding responsibility.
- **Advisors:** Parties are required to have an Advisor at the Hearing for the purpose of cross examination. If a party does not have an Advisor, the hearing may not proceed until the University has provided a trained Advisor to participate in the hearing.
- **Questioning and Witnesses:** Each party's Advisor may ask the other party and any witnesses relevant questions and follow up questions, including those that challenge credibility. The parties may not question each other or witnesses directly.

Each party has the equal opportunity to present fact witnesses and expert witnesses and other evidence.

- **Evidence:** No party or witness may introduce relevant evidence at the hearing if it was not first vetted by the Investigator(s) during the investigation phase of the resolution process unless all parties and the hearing officer agree that it can be raised at the hearing.
- **Credibility:** Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.
- **Recording:** The hearing will be recorded, for purposes of review in the event of an appeal, using technology available to the University at the time. The parties may not record the proceedings, and no other unauthorized recordings are permitted.
- **Standard of Evidence:** The hearing officer will determine whether the Respondent is Responsible or Not Responsible for violating Averett's Title IX Sexual Harassment Policy based on a Preponderance of the Evidence standard. A separate decision will be made for each alleged violation.

## I. Outcome

Parties will be notified in writing of the hearing outcome within ten business days of the conclusion of the hearing. If the determination for any of the allegations is "responsible," the outcome letter will include sanctions.

## J. Sanctions

Sanctions will be determined by the following administrators:

- For student Respondents, sanctions will be determined by the Dean of Students.
- For employee Respondents, sanctions will be determined by the Chief Financial Officer or the Vice President of Academic Affairs.

Factors considered when determining a sanction may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions to bring an end to the harassment, and/or retaliation
- The need for sanctions to prevent the future recurrence of harassment, and/or retaliation
- The need to remedy the effects of the harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the sanctioning administrator.

**Student Sanctions** (see the Student Handbook for a complete description of each sanction):

- Statement of Concern
- Written Warning
- Probation
- Educational Session or Experience
- Community Programs
- University Housing Restriction
- University Housing Suspension
- Deferred Suspension
- Suspension
- Expulsion

**Employee Sanctions:**

- Written Warning
- Required Training or Education
- Alteration of Work Arrangements
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight, Supervisory, Mentor, or Sponsor Responsibilities
- Demotion
- Suspension with or without Pay
- Termination

#### **K. Appeals**

Within 5 business days of the notice of outcome of a hearing, either party may appeal. Appeals are limited to the following grounds:

- A procedural irregularity that affected the outcome.
- New evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made that could affect the outcome.
- The Title IX Coordinator, investigator(s), hearing officer(s) or decision-maker had a Conflict of Interest or Bias for/against the Complainant or Respondent or for/against Complainants/Respondents in general that affected the outcome.

Requests for appeal should be submitted to the Title IX Coordinator. When an appeal that meets one or more of the above grounds is received, the University will notify each party

and, when appropriate, the investigator(s), decision-maker, and hearing officer, who may then respond in writing within 5 business days with information relevant to portion of the appeal that was approved and involves them. The appeal and all relevant information will be considered, and a decision rendered, within 7 business days after the response period has expired or the responses have been received.

- For cases with a student Respondent, the Title IX Coordinator will provide the appeal, responses, case file, and the record of the hearing to the Vice President for Student Engagement or their designee, who shall render a final decision on the appeal.
- For cases with a staff member as a Respondent, the Title IX Coordinator will provide the appeal, responses, case file, and the record of the hearing to the President of the University or their designee, who shall render a final decision on the appeal.
- For cases with a faculty member as a Respondent the Title IX Coordinator will provide the appeal, responses, case file, and the record of the hearing to the President of the University or their designee. The President of the University or a faculty panel appointed by the President of the University shall render a final decision on the appeal.

Parties will be notified in writing of the appeal outcome. Notice will include any specific instructions for remand or reconsideration.

#### **L. Remedies**

Following the conclusion of the resolution process, and in addition to any Sanctions implemented, the Title IX Coordinator may implement additional long-term Remedies with respect to the parties and/or the campus community.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no Policy violation is found.