

## O. Investigative Outcomes

### 1. Investigative Finding & Determination

The decision-maker (who cannot be the same person as the Title IX Coordinator or the investigator) will issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant. This determination will be provided in writing to both the Complainant (s) and Respondent become final. The following are the potential outcome:

#### a. Actual Knowledge Notice of Violation

In the event the Sexual Misconduct and Interpersonal Violence Hearing Board determines that there is probable cause to believe that a violation of this policy occurred, the Title IX Coordinator will issue a “Actual Knowledge Notice of Violation” in writing to any Respondent(s) and provide a copy of the Actual knowledge notice of Violation to any Complainant(s).

#### b. Actual Knowledge Notice of No-Violation

In the event that the Sexual Misconduct and Interpersonal Violence Hearing Board does not find that there is probable cause to believe that a violation of this policy occurred, the board will issue (through the Title IX Coordinator) a “Actual knowledge Notice of No Violation” in writing to any Complainant(s) and provide a copy of the Actual knowledge notice of No Violation to any Respondent(s). The Title IX Coordinator will also notify the parties of their right to appeal the Investigative Findings & Determination, and, if applicable, the sanctions or disciplinary measures recommended.

### 2. Standard of Proof

The standard of proof used for all sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and other forms of interpersonal violence or sex discrimination is a preponderance of evidence. This means there is a greater than 50% chance (based on the evidence provided within the investigation) that the Respondent(s) is responsible for the violation as indicated in the filed report.

If there is a finding of responsibility, the finding will be forwarded as follows for sanctioning or disciplinary action:

- **Staff and University Volunteers:** The Director of Human Resources and the employee’s direct supervisor. Together, in collaboration with the supervising Vice-President and Title IX Office, disciplinary action will be assigned.
- **Faculty:** The Vice-President for Academic Affairs and the faculty members’ Division Chair. Together, in collaboration with the supervising Vice-President and the Title IX Office, disciplinary action will be assigned.
- **Students:** The Associate Dean of Students/Chief Conduct Officer. Sanctions will be assigned accordingly.

## P. Disciplinary Action/Sanctioning

Depending on the nature of the charges, the disciplinary actions and sanctions include:

- **For Students:**
  - a. **Sexual Assaults or Attempted Sexual Assaults**

- i. Level IV: Suspension or Expulsion Status:**  
Recommendation to the Vice President for Student Affairs/Dean of Students for suspension (minimally 1 academic semester) or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.
    - b. Domestic Violence/Dating Violence**
      - i. Level II: Community Probation Status:**  
Behavior contract; loss of access to University facilities and services; loss of guest visitation privileges; restrictions of visitation to certain residence halls or campus areas; weekends off campus.
      - ii. Level III: University Probation Status:**  
Loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of access to University facilities and services; loss of residency/community privileges; restitution, if applicable; residence hall reassignment.
      - iii. Level IV: Suspension or Expulsion Status:**  
Recommendation to the Vice President for Student Affairs/Dean of Students for suspension or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.
    - c. Sexual Misconduct**
      - i. Level II: Community Probation Status:**  
Behavior contract; loss of access to University facilities and services; loss of guest visitation privileges; restrictions of visitation to certain residence halls or campus areas; weekends off campus.
      - ii. Level III: University Probation Status:**  
Loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of access to University facilities and services; loss of residency/community privileges; restitution, if applicable; residence hall reassignment.
      - iii. Level IV: Suspension or Expulsion Status:**  
Recommendation to the Vice President for Student Affairs/Dean of Students for suspension (minimally 1 academic semester) or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or scholarships.
    - d. Sexual Harassment or Stalking**
      - i. Level III: University Probation Status:**  
Loss of athletic privileges or extracurricular involvement; loss of scholarships; loss of access to University facilities and services; loss of residency/community privileges; restitution, if applicable; residence hall reassignment.
      - ii. Level IV: Suspension or Expulsion Status:**  
Recommendation to the Vice President for Student Affairs/Dean of Students for suspension (minimally 1 academic semester) or expulsion from Walsh University; loss of access to University facilities and services; removal from residential community; loss of extracurricular and athletic privileges and/or

scholarships.

**e. Retaliation**

Interim suspension and/or removal from campus including athletic and extracurricular involvement pending the outcome of the student conduct case. Charges of retaliation are as separate matter from the Title IX issues and will be addressed promptly through the student conduct system.

Charging an individual with code of conduct violations that do not involve sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and other forms of interpersonal violence or sex discrimination but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation. Complaints alleging retaliation may be filed according to a school's prompt and equitable grievance procedures. - The exercise of rights protected under the First Amendment does not constitute retaliation.

• **For Employees:**

**a. Walsh University Employee Handbook: Professional and Support Staff**

Section A.18: "Disciplinary Action: Sexual Misconduct and Interpersonal Violence  
Walsh University prohibits all forms of sexual misconduct, including, but not limited to sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and other forms of interpersonal violence or sex discrimination. Such conduct violates Walsh University's values and can cause disruption to the living, learning and work environment of students, employees, University volunteers, and other community members. Depending on the seriousness of the problem, violations of this type of prohibited conduct by employees will result in the following types of disciplinary action: verbal warning, written warning, no contact orders, job restrictions or reassignments, probation, suspension and discharge."

**b. Walsh University Employee Handbook: Faculty**

If the faculty member is found in violation of any form of sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and other forms of interpersonal violence or sex discrimination, faculty will face "appropriate and necessary discipline up to and including termination." Also refer to moral turpitude discussion regarding tenured faculty in the Faculty Handbook.

**c. Walsh University Volunteer Policies (University Volunteer Handbook, pg. 9)**

**i. Volunteer Code of Conduct:** "Harassment of any nature, abuse, alcohol/drug use, and discrimination will not be tolerated in any form. University volunteers will behave with the utmost respect and be caring, supportive and friendly in nature at all times in their positions. Staff shall act in a reciprocal nature and infractions will not be tolerated. The University has the right to discipline a University volunteer who does not conduct themselves in an appropriate and professional manner."

**ii. University Volunteer Dismissal Policy:** "Dismissal of University volunteers may occur. Prior to dismissal and depending on the seriousness of the infraction, the sponsoring University department or division volunteer supervisor may issue

a verbal warning, followed by a written warning. Activities that may warrant immediate dismissal can include but are not limited to the following: poor performance, abuse (sexual or physical), sexual harassment, sexual assault, domestic violence, dating violence, stalking, retaliation and other forms of interpersonal violence or sex discrimination (depending upon the seriousness), alcohol or drug use/abuse, insubordination, falsifying information, illegal or violent acts, and breach of confidentiality. These actions once reported and investigated by the sponsoring University department or division volunteer supervisor will be discussed with the Director of Human Resources and decided upon in terms of whether or not they warrant immediate dismissal. The University volunteer can be dismissed for just cause without warning. All warnings and reports should be placed on file for record and will be treated as confidential in nature. The dismissal process will be dependent on the level of seriousness of the infraction. Volunteers serve at the sole discretion of Walsh University. See paragraph 7 of the volunteer agreement.”

**d. Retaliation**

Charges of retaliation are as separate matter from the Title IX issues and will be addressed promptly through the Human Resources office in collaboration with the employee’s direct supervisor.

**Q. Appeal Process**

The Complainant(s) or Respondent(s) have the right to appeal a determination and recommended sanctioning only on the following grounds:

- 1) There is a substantial likelihood that newly discovered information, not available at the time evidence was presented to the investigating Title IX Team Member or Sexual Misconduct and Interpersonal Violence Hearing Board Member, would result in a different decision,
- 2) There was a procedural error significant enough to call the outcome into question, and/or
- 3) The sanction or disciplinary action imposed is disproportionate to the offense.

Appeals are not intended to be full re-hearings of the formal complaint and investigation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. This is not an opportunity for Appeal Review Board members to substitute their judgment for that of the original hearing body merely because they disagree with its finding and/or sanctions.

Appeals decisions are to be deferential to the original hearing body, making changes to the finding only where there is clear error and to the sanction only if there is a compelling justification to do so.

**1. Method of Appeal**

Complainant(s) and Respondent(s) may file a written appeal with the Vice-President for Student Affairs/Dean of Students (or designee) within seven (7) calendar days from the date of the written decision.

The appeal must be in writing and contain the following:

- 1) Name of the Complainant(s)
- 2) Name of the Respondent(s)