

N. Institutional Grievance Processes

1. Criminal Complaints

Ohio state and/or federal law will apply, and the matter will follow criminal processes through a police investigation, a referral to the County Prosecutor's Office, and/or the criminal court system for resolution.

2. Formal Complaint

The University's investigation of formal complaints of policy violations is different and separate from a criminal complaint investigation by any law enforcement agency. An ongoing law enforcement investigation does not relieve the University of its obligation to investigate allegations of conduct prohibited by this policy. In cases involving potential criminal conduct, University personnel must determine, consistent with federal, state, and local law, whether appropriate law enforcement agencies or other authorities should be notified. Conduct may constitute a violation of this policy and result in disciplinary action by the University even if a law enforcement agency and/or court of law determines that the conduct did not constitute a crime.

3. Informal Resolution of Formal Complaints

In appropriate circumstances, and with the approval of both the Complainant(s) and Respondent(s), the Title IX Coordinator may attempt informal resolution options, such as alternate resolutions or restorative justice to resolve a formal complaint of an alleged policy violation without the need for additional proceedings. When *Informal Resolution of a Formal Complaint* is pursued, the Title IX Coordinator will provide written notice to the Complainant(s) and Respondent(s) regarding:

- 1) the allegations;
- 2) the voluntary nature of the informal resolution process and the availability of a formal investigation at all times; and
- 3) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Effort will be made to resolve an institutional formal complaint within approximately sixty (60) days of the filing of a formal complaint. The objective of the informal process will be to reasonably resolve the incident to the mutual satisfaction of the parties involved, if possible.

a. Alternative Resolutions

In some cases, both the Complainant and Respondent(s) have the opportunity to request a specific type of informal resolution process. In order to proceed with an informal process, both parties must agree to the Informal Resolution. It is not appropriate to conduct an Informal Resolution in cases of sexual assault, dating violence, domestic violence, or intimate partner stalking. At any time, either party has the right to pursue a formal process.

Walsh University may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, Walsh University may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. Walsh University must not offer or

facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

4. Investigation of Formal complaints

In instances where informal methods of resolution are inappropriate or declined, a formal investigation will be conducted. While all investigations will vary due to the individual circumstances surrounding the particular report, formal investigations under this policy will typically involve the following:

a. Initial Review

Preliminary review by the Title IX Coordinator of any formal complaint filed to determine whether, on its face, an alleged violation of the policy has occurred, and an investigation is needed.

b. Investigation of Allegations

Investigations are conducted by the Title IX Office. For the purposes of investigation, the Title IX Coordinator will assign Title IX Team members(s). Title IX Team members include the Title IX Coordinator and Title IX Deputies, and all team members are trained to conduct each stage of the formal investigation process.

i. Initial Title IX Team Assignment

Prior to the start of a formal investigation, the Title IX Coordinator will send a written “Initial Title IX Team Assignment” to the Complainant(s) and Respondent(s), which will include the names of the Title IX Team member(s) assigned to the particular formal complaint.

ii. Conflict of Interest

If any Complainant(s) and/or a Respondent(s) believes any Title IX Team member assigned to the particular formal complaint has a conflict of interest, the party must contact the Title IX Coordinator in writing no more than seven (7) days (excluding University holidays) of receiving the Initial Title IX Team Assignment with an explanation of the alleged conflict of interest (a “Conflict of Interest Actual knowledge notice”).

In the event that the Title IX Coordinator receives a Conflict of Interest Actual knowledge, the Title IX Coordinator will make any substitutions the Title IX Coordinator deems appropriate. Similarly, if an assigned Title IX Team Member believes the particular formal complaint poses a conflict of interest for the individual, the Title IX Team member will contact the Title IX Coordinator immediately and the Title IX Coordinator will make any substitutions the Title IX Coordinator deems appropriate. After the Conflict of Interest Actual knowledge notice period has passed, the Title IX Coordinator will send a written “Final Title IX Team Assignment” to the Complainant(s) and Respondent(s).

iii. Title IX Team Member Notification

The Title IX Team member(s) will send written notification to the Complainant(s) and the Respondent(s) that the formal investigation has started, along with the

relevant conduct provision(s) at issue and the potential sanctions and disciplinary actions if a violation of the policy is found.

iv. Investigative Interviews

The Title IX Team member(s) will conduct interviews of the Complainant(s), the Respondent(s), and any witnesses identified by those parties. The Respondent(s) shall be provided a copy of any written report or otherwise informed of the substance of any Complainant(s) 's allegations. Similarly, the Complainant(s) shall be provided with a copy of any written response provided by a Respondent(s) or otherwise informed of the substance of any Respondent(s)'s response to the allegations.

v. Consideration of Evidence by Title IX Team Member(s):

The Title IX Team member(s) will gather relevant documents or evidence (e.g., law enforcement investigatory records, student and/or personnel files, etc.). Both the Complainant(s) and Respondent(s) will be asked to provide a list of possible witnesses as well as any written or physical evidence (e.g., text messages, social media postings, emails, photos, medical records, etc.) that they wish to be included as part of the investigation.

vi. Prepare Investigative Report

The Title IX Team Member(s) will prepare an Investigative Report complete with a summary of interviews, relevant documents, and next steps.

vii. Distribute Investigative Report

The Title IX Team member(s) shall provide any Complainant(s) and Respondent(s) with access to the Investigation Report as well as any non-confidential documents or evidence gathered by the Title IX Investigator(s) that were used to prepare the Investigation Report to the parties.

The evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available to the parties and their advisors, including the evidence upon which the University may not rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence. The parties will have 10 calendar days to review the evidence. The parties will be offered the opportunity to review the evidence and provide a written response that will be submitted to the investigators for the completion of the Investigation Report.

The investigator shall then prepare a written Investigation Report fairly summarizing the relevant evidence, and provide a copy to both parties. The investigator shall submit this Investigation Report to the parties no less than ten days before any scheduled hearing. Each party may submit a written response to the Investigation Report. The purpose of the Investigative Report is to summarize factual findings, not conclusions as to whether a policy violation occurred. The investigator may also make findings that go to the credibility and cooperation of witnesses. Due to the privacy of all those involved, evidence is shared in an electronic format will not be

printable, downloadable or electronically shareable by the parties or their advisors. Exceptions may be made in compliance with Section 504 of the Rehabilitation Act of 1973.

c. Pre-Hearing Conference

Each party will have their own pre-hearing conference. The Title IX Coordinator will communicate to the parties, their advisors, and the Hearing Chair the date, time, and format for their Pre-Hearing Conference. The Title IX Coordinator, the Hearing Chair, and the advisor must be in attendance. While the parties are strongly encouraged to attend, they are not required to do so.

During the Pre-Hearing Conference, the advisors must share with the Sexual Misconduct and Interpersonal Violence Hearing Chair, their list of witnesses to appear at the hearing, the identity of any requested witnesses that were not questioned during the investigation, the request for any new evidence to be considered that was not submitted previously to the investigators, and the availability of the advisor and the party for hearing dates.

Evidence and witnesses may only be presented at the hearing if they were submitted to the investigators and made available to the parties for review, unless they were unavailable at the time of the investigation or the relevance was unknown until the investigative report was submitted. The Hearing Chair will address any requests to present new evidence and new witnesses at the Prehearing Conference.

The advisor is strongly encouraged to discuss lines of questioning with the Sexual Misconduct and Interpersonal Violence Hearing Chair at the Prehearing Conference to obtain guidance from the Hearing Chair on relevancy prior to the hearing. The Sexual Misconduct and Interpersonal Violence Hearing Chair will discuss the expectations and guidelines for appropriate behavior and decorum during the hearing.

After reviewing each party's witness list, the Sexual Misconduct and Interpersonal Violence Hearing Chair may, at their discretion, add names of other witnesses contained in the report for the purpose of appearing at the hearing and submitting to cross-examination.

After the conclusion of the Pre-Hearing Conferences, the Title IX Coordinator will provide each party and their advisor with written notice of the date, time, and manner for the hearing, which will typically occur no less than 5 business days after the conclusion of the final pre-hearing conference

d. Live Hearing

Once all the initial investigation and interviews have taken place, the live hearing will be scheduled by the Title IX Coordinator. During the live hearing, the decision-makers, called the Sexual Misconduct and Interpersonal Violence Hearing Board will facilitate the process of permitting each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including that challenging credibility. The Hearing Board consists of the Title IX Hearing Board Facilitator, 1 faculty member and 1 staff member. Live hearings may be conducted with all parties physically present in the same geographic location or, at the school's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. Additionally, schools must create an audio or audiovisual recording, or transcript, of any live hearing.

i. Cross Examination

- a. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- b. At the request of either party, the recipient must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- c. Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain to the party's advisor asking cross-examination questions any decision to exclude a question as not relevant.
- d. If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- e. If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

e. Advisor or Support Person of Choice: Reporting and Respondent(s)

Complainant(s) and Respondent(s) have a right to be accompanied by one advisor or support person who may be, but is not required to be, an attorney, of the individual's choosing, or if the party needs an advisor, chosen/suggested by the University, during any meeting with a Title IX Team Member and including the live hearing (if applicable). That advisor or support person:

- is permitted to provide support but cannot advocate for the party or impede the investigation.
- is not permitted to be someone who is a potential witness in the investigation.
- is permitted to cross examine/ask questions during the live hearing on behalf of the Complainant(s) or Respondent(s), provided they are relevant to the investigation and have been approved by the university decision makers.

Any advisor that becomes disruptive in any meeting/hearing, the university reserves the right to remove the advisor from that meeting and/or prohibit them from participating in the remainder of the process. Any person who serves as an advisor should plan to make themselves available for meetings throughout the process. Scheduling of the interviews and meetings will not be unduly delayed due to the lack of availability of the advisor.

f. Rights of the Complaint(s) and Respondent(s)

During the investigation and resolution of a formal complaint filed, the Complainant(s) and Respondent(s) shall have equal rights. These rights include the right to:

- have written notice of the of the allegations upon receipt of a formal complaint.
- to present fact and expert witnesses and other inculpatory and exculpatory evidence.
- to select an advisor of the party's choice who may be, but need not be, an attorney.
to send written notice of any investigative interviews, meetings, or hearings.
- to send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence.
- to freely discuss and gather evidence related to the allegation (no gag orders)
- to identify and have considered witnesses and other relevant evidence.
- to be apprised of the substance of any statements or evidence provided by the other party.
- to receive, along with their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond.
- to cross examine the Complainant(s) or Respondent(s) and corresponding witnesses during a live hearing.
- to appeal determinations pursuant to "Section Q. Appeal Process"

g. Investigation Timeline

Efforts will be made to complete a formal investigation within approximately sixty (60) days of receiving the initial formal complaint. If the University is unable to complete a formal investigation within sixty (60) days of receipt of a formal complaint, the Title IX Coordinator or Title IX Deputy assigned to the investigation, will notify any Complainant(s) and any Respondent(s) in writing of the need for additional time, the reason(s) that additional time is needed, and an approximate date for completion of the formal investigation.

h. Promptness, Fairness and Impartiality

These investigative procedures provide for prompt, fair, and impartial investigations and resolutions. The Title IX Team member shall discharge their obligations under these procedures fairly and impartially. If the Team IX Team member determines that they cannot apply these procedures fairly and impartially because of the identity of a Complainant(s), Respondent(s), or witness, or due to any other conflict of interest, the Title IX Team member shall designate another appropriate individual to administer these procedures.

i. Dismissal of Allegation

Walsh University must dismiss allegations of conduct that do not meet the definition of sexual harassment or did not occur in a school's education program or activity against a person in the U.S. Such dismissal is only for Title IX purposes and does not preclude the school from addressing the conduct in any manner the school deems appropriate. Furthermore, Walsh University may, in their discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled or employed by the school, or if specific circumstances prevent the school from gathering sufficient evidence to reach a determination. In cases of a request for a withdrawal of a formal complaint, the school must give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal.