

SAM 01.D.08 – Sexual Misconduct Policy
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Filing a Formal Complaint
Written Notice to the Respondent
Response to a Formal Complaint
Informal Resolution (Confidentiality)
Investigation

UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM

SECTION: General Information

NUMBER: 01.D.08

AREA: Legal Affairs

SUBJECT: Sexual Misconduct

1. PURPOSE

This Policy provides the exclusive mechanism for the University of Houston System and its universities ("University") to manage the non-criminal reporting of Sexual Misconduct, as defined in this Policy, by providing a prompt, fair, and impartial investigation and resolution process.

Consistent with its commitment to addressing Sexual Misconduct, the University complies with Title IX of the Education Amendments of 1972 ("Title IX"), which

) and applicable state law, including Texas Education Code §51.259 and §51.295 and Texas Labor Code §21.142. The University also prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking defined by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

2. POLICY

The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, visitors and applicants for admission or employment are free from sex discrimination of any kind. Sexual Misconduct, a form of sex discrimination, is antithetical to the standards and ideals of

This Policy includes two separate grievance processes to comply with Title IX regulatory requirements and continue to address Sexual Misconduct that occurs outside of Title IX jurisdiction: Title IX Grievance Procedures and UH System Sexual Misconduct Grievance Procedure. The University acknowledges that Sexual Misconduct occurring outside of an Education Program or Activity, as defined in the Title IX regulations and this Policy, can have a direct impact on the campus experience, depriving individuals who experience it of their fundamental ability to live, learn and work with dignity. It is essential that university environments foster gender equality and provide safe spaces in which all students can learn and all employees can work. Students' equal access to education depends on effective policies and responses by universities to address Sexual Misconduct.

Students and employees may be disciplined under this Policy for Sexual Misconduct on University grounds or off University grounds when the incident occurs in connection with an Education Program or Activity when the incident has a substantial connection to an employee's duties or the interests of the University, or when the incident poses a threat of serious mental or bodily harm to any member of the University community, even if the student or employee is or may be penalized by civil or criminal authorities for the same act.

3. DEFINITIONS

- 3.1 Actual Knowledge Notice of actual or alleged Sexual Misconduct to a University's Title IX Coordinator or any official of the University who has authority to institute corrective measures on behalf of the University. Other officials of the University who have authority to institute corrective measures on behalf of the University include all elementary school employees.
- 3.2 Complainant An individual who is alleged to be the victim of conduct that could constitute Sexual Misconduct, as defined in this Policy.
- 3.3 Confidential Resource Employee A University employee designated as a person with whom students may speak confidentially about Sexual Misconduct who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law. Such employees include but are not limited to
- 3.3.1 The staff of a counseling or health center acting in their capacity as a counseling or health provider; and
- 3.3.2 Individuals who are associated with the University in the role of a pastoral counselor or confidential advisor acting in that capacity.
- 3.4 Consent An informed and freely and affirmatively communicated willingness to participate in a particular sexual activity by a capacitated and legally competent

person. See Section 5 – Consent for further guidelines on Consent

- 3.5 Discrimination Treating an individual or members of a Protected Class less favorably because of their membership in that class or having a policy or practice that has a disproportionately adverse impact on Protected Class members.
- 3.6 Education Program or Activity Such locations, events, or circumstances over which the University exercised substantial control over both the independent and the context in which the Title IX Sexual Misconduct occurs, and also includes any

- 3.12 Incapacitation A person is incapacitated (not legally competent) and cannot consent to sexual activity if the person is unconscious or otherwise unable to resist, is unaware that sexual activity is occurring, and/or does not have the legal capacity to consent.
- 3.12.1 A person may be unable to consent when they are mentally or physically incapacitated because of the influence of drugs, alcohol, or medication and as a result are rendered temporarily incapable of understanding, appraising, or controlling their conduct.
- 3.12.2 A person's incapacity to understand, appraise, or control their conduct may be analyzed based on surrounding factors including, but not limited to, hallucinations, blackouts, seizures, vomiting, slurred speech, disorientation, or lack of physical or mental coordination.
- 3.12.3 When a Respondent has been accused of engaging in sexual activity with an incapacitated person, the perspective of a reasonable person will be applied to determine whether the Respondent knew or should have known about the Complainant's inability to give consent.
- 3.13 Protected Class A class of persons who are protected under applicable federal or state laws against discrimination and harassment on the basis of race, color, sex (including pregnancy), genetic information, religion, age, national origin, disability, veteran status, sexual orientation, gender identity, and gender expression or any other legally protected status.
- 3.14 Personal Advisor Any named party is entitled to have one (1) personal advisor of their choice present during any meeting related to the investigation of Sexual Misconduct. This advisor may be an attorney, provided at the party's expense, with no cost to the University. Personal Advisors may not speak on behalf of the individual they are advising or be a witness at any hearing that they attend in the capacity of Personal Advisor or Hearing Advisor. A Personal Advisor may ask to briefly suspend any meetings, interviews, or hearings to provide private consultation related to the meeting or proceeding in progress. An individual serving as a Personal Advisor may serve as a Hearing Advisor under Title IX Grievance Procedures.
- 3.15 Respondent An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Misconduct.
- 3.16 Responsible Employee A University employee who has the duty to report incidents of Sexual Misconduct.

- 3.17 Sexual Misconduct Any conduct defined in this Policy as Title IX Sexual Misconduct or UH System Sexual Misconduct. Please see Appendix A Definitions for more information.
- 3.18 Supportive Measures Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent regardless of whether a Formal Complaint has been filed.
- 3.19 Title IX Coordinator The person who has been designated on each University's campus to coordinate efforts to comply with and implement this Policy. The Title IX Coordinator is responsible for conducting the administrative investigation of reports of Sexual Misconduct.

3.23 University Premises Buildings or grounds owned, (misi -0.002 c 0.000.000.000.0(e)4(-0.00



6. REPORTING INCIDENTS

6.1 Any person, regardless of whether they are the alleged victim, may report Sexual Misconduct to the Title IX Coordinator

of this Policy and may do so through the methods listed in this Policy.

- 7.9 Public awareness events such as “Take Back the Night,” candlelight vigils, protests, “survivor speak outs” or other forums in which members of the community disclose incidents of violations of this Policy are not considered notice to the University for the purpose of triggering its obligation to investigate.

However, information regarding rights under this Policy will be available to anyone who discloses Sexual Misconduct at one of these types of events.

- 7.10 Reporting to Outside Entities: An individual wishing to make a complaint may also contact the U.S. Department of Education, Office for Civil Rights (OCR) to complain of sex discrimination including Sexual Misconduct:

Office for Civil Rights
U.S. Department of Education
1999 Bryan Street, Suite 1620
Dallas, Texas 75201
Phone: (214) 669600
Fax: (214) 6619587
Email: OCR.Dallas@ed.gov

Employees may also contact the U.S. Equal Employment Opportunity Commission to complain of sex discrimination including Sexual Misconduct

U.S. Equal Employment Opportunity Commission
Houston District Office
1919 Smith Street, 6th Floor
Houston, Texas 77002
Phone: (800) 669820
Fax: (713) 6514987

8. IMMEDIATE ASSISTANCE

- 8.1 Medical Assistance An individual who experiences any form of Sexual Misconduct is encouraged to seek immediate medical care. Preserving DNA evidence can be key to identifying the perpetrator in a sexual violence case. Victims can undergo a medical exam to preserve physical evidence with or without police involvement. If possible, this should be done immediately. If an immediate medical exam is not possible, individuals who have experienced a sexual assault may have a Sexual Assault Forensic Exam (SAFE) performed by a Sexual Assault Nurse Examiner (SANE) within 120 hours of the incident. With the examinee’s consent, the physical evidence collected during this medical exam can be used in a criminal investigation; however, a person may undergo a SAFE even without contacting, or intending to contact, the police. To undergo a SAFE,

please go to the nearest hospital that provides SAFE services. For more information about the SAFE, ~~see~~ the University of Houston System's webpage dedicated to resources and reporting information related to sexual misconduct

x University of Houston – Victoria
<http://www.uhv.edu/police/>
361-570-4357

f University of Houston – Katy

A campus security station is located on the first floor lobby of the UH and UHV – Katy campus. Security can be reached at the duty desk at 832-3911.

8.3 Counseling Assistance A person who has experienced sexual violence is strongly encouraged to seek medical and psychological care even if they plan to request a Sexual Assault Forensic Exam (SAFE) or report the assault to the police.

8.4 Complainants will be provided written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available both within the University and in the community of Katy.

- x Counseling for a Complainant or Respondent through a university-affiliated counseling center while the processes outlined in this policy are ongoing
- x Extensions of deadlines or other course-related adjustments
- x Modifications of work or class schedules
- x Campus escort and transportation services
- x M x

the following nonexclusive reasons:

- x The Complainant expressly or by action declines to cooperate with the investigation;

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who receive information of alleged Sexual Misconducts must share that information with the Title IX Coordinator. As such, the University may need to act to maintain campus safety and must determine whether to investigate further, regardless of the Complainant's request for confidentiality or request to not investigate a report submitted to the Title IX Coordinator.

- 11.6 In making determinations regarding requests for confidentiality including Complainants' requests to not investigate, dismiss Formal Complaints, and/or to not disclose identifying information to Respondents, the Title IX Coordinator must deliberately weigh the rights, interests, and safety of the Complainant, the Respondent, and the campus community.

charges have been reduced.

14. FILING A FORMAL COMPLAINT & INVESTIGATION

14.1 If a Complainant wishes to pursue official University action against a Respondent for alleged Sexual Misconduct, they may follow the steps described in this section to file a Formal Complaint, which will initiate an investigation. At the end of the investigation, the Title IX Coordinator will make a determination on which grounds the Respondent is responsible (as described in Section 9.10.5).
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otherwise a party. The decision for the Title IX Coordinator to file a Formal Complaint is not taken lightly and will be determined based on various factors including, but not limited to, the type of actions alleged in the report, prior reports received, the

- x Notice that the parties may inspect and review evidence, in accordance with applicable policies; and

Notice of any provision of the University's code of conduct or other policy that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

14.4 Response to a Formal Complaint

14.4.1 A Respondent's response to a Formal Complaint is due to the Title IX office within five (5) business days from the date the Title IX office sent it to the Respondent. The Title IX office may grant an extension for good cause.

14.4.2 The response should address and respond to the specific allegations made in the Formal Complaint and can include any other rebuttal information or evidence.

14.4.3 A response may be provided in writing through an in-person interview with the investigator(s).

14.4.4 While a Respondent is not required to provide a response to the Formal Complaint or answer questions related to the investigation, this will not stop the Formal Complaint process. Failure to acknowledge receipt of the Formal Complaint may be considered a violation of University policy and could result in additional action.

14.5 Informal Resolution(Optional)

14.5.1 If a Formal Complaint alleges a violation of this Policy, the Title IX Coordinator may choose to offer the parties an informal process that resolves the Formal Complaint without completing the grievance process. The option to informally

14.6 Investigation

- 14.6.1 Absent extenuating circumstances, a Sexual Misconduct investigation will begin upon receipt of a Formal Complaint of alleged Sexual Misconduct. A preliminary investigation may begin prior to receiving a response from a Respondent
- 14.6.2 Title IX investigator(s) will attempt to gather evidence and interview the Complainant, the Respondent(s), and any witnesses, including those identified by the Complainant and Respondent, as appropriate
- 14.6.3 Both Complainant and Respondent will be provided equal opportunity to present witnesses and other inculpatory and exculpatory evidence
- 14.6.4 Both Complainant and Respondent will be provided equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source

14.7 Inspection of Evidence and Investigative Report

- 14.7.1 Prior to the completion of the investigative report, the Title IX investigator(s) will send to each party and their Advisor, if any, a draft copy of the investigative report and all evidence obtained as part of the investigation, including all inculpatory or exculpatory evidence
- 14.7.2 The parties will be given ten (10) business days to review the draft report and evidence and provide a written response before the investigative report becomes final

16. UH SYSTEM SEXUAL MISCONDUCT GRIEVANCE PROCEDURE

16.1 If the alleged Sexual Misconduct is found to be considered UH System Sexual Misconduct, the UH System Sexual Misconduct Grievance Procedure, described in Appendix C of this Policy, will apply.

17. RETALIATION PROHIBITED

17.1 The University takes reports of Sexual Misconduct very seriously and will not tolerate retaliation against those who in good faith make such reports or participate in the investigation or adjudication process.

17.2 No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any rights or privilege secured in this Policy. For because the individual has made a report, Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

17.3 Any person who believes that they have been subjected to retaliation should immediately report this concern to the Title IX Coordinator.

17.4 If an individual makes a materially false statement in

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24. TRAINING

- 24.1 Investigator(s) will receive training at least annually on issues related to Sexual Misconduct and how to conduct the processes outlined in this Policy while being both trauma-informed and impartial, while protecting the safety of those involved and promoting accountability.
- 24.2 Members of the University's Hearing Board and Hearing Officers will receive training at least annually on issues related to Sexual Misconduct. These individuals will also receive training regarding the role of Title IX office to enforce this Policy, best practices for hearings and hearing panelists, and their role in ensuring and promoting safety, due process, and accountability.
- 24.3 The University will provide training for all incoming students and new employees that increase their knowledge about this Policy, their rights, and resources, as well as strategies to prevent violence, promote safety, and reduce perpetration. Employees will receive initial mandatory training within thirty (30) days of their hire date and supplemental training every two (2) years.
- 24.4 The University will provide training for Title IX Coordinators, investigators, Hearing Officers, and any person designated by the University to facilitate an informal resolution process as required by Title IX.

25. REVIEW AND RESPONSIBILITY

Responsible Party: Vice Chancellor for Legal Affairs and General Counsel

Review: Every two years

26. APPROVAL

Approved: Dona Cornell/
Vice Chancellor for Legal Affairs and General Counsel

Renu Khator/
Chancellor

Date: September 1, 2021

27. LEGAL REFERENCES AND RESOURCES

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 – 1688, 34 CFR Part 106

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-29 CFR Part 16

Violence Against Women Reauthorization Act of 2013 (also known as the Campus Sexual Violence Elimination Act (SaVE Act), Section 304, 34 U.S.C. 12291
Family Education Rights and Privacy Act (FERPA) – 20 U.S.C. § 1232g; 34 CFR Part 99
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) – 20 U.S.C. § 1092; 34 CFR Part 668.46
Texas Education Code Subchapter 2 E Reporting Incidents of Sexual Harassment, Sexual Assault, Dating Violence, and Stalking (§§ 51.251 – 51.260)
Texas Education Code Subchapter 3 E Sexual Harassment, Sexual Assault, Dating Violence, and Stalking (§§ 51.281 – 51.295)
Texas Labor Code § 21.142 – Unlawful Employment Practice
Texas Penal Code § 42.07 – Harassment
Texas Penal Code § 42.073 – Stalking

APPENDIX A – Definitions

This chart provides clarity on the definitions of acts which constitute Sexual Misconduct under Title IX and UH System Policy. *Please note, for Title IX Sexual Misconduct the alleged conduct must meet the jurisdictional requirements described in Section 4.4 – Jurisdiction. In other words, the conduct alleged must occur in the United States, on campus or at a University affiliated building or event, while the Complainant is attempting to participate in a University program.

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
Dating Violence	<p>* As defined in 34 U.S.C. 12291(a)(10). Dating Violence means violence committed by a person:</p> <ul style="list-style-type: none"> x Who is or has been in a social relationship of a romantic or intimate nature with the victim; and x Where the existence of such relationship shall be determined based on a consideration of factors such as the length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship. 	<p>As defined in 34 U.S.C. 12291(a)(10). Dating Violence means violence committed by a person:</p> <ul style="list-style-type: none"> x Who is or has been in a social relationship of a romantic or intimate nature with the victim; and x Where the existence of such relationship shall be determined based on a consideration of factors such as the length of relationship, type of relationship, and frequency of interaction between the persons involved in the relationship.
Domestic Violence	<p>* As defined in 34 U.S.C. 12291(a)(8). Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim</p> <ul style="list-style-type: none"> x By a person with whom the victim shares a child in common x By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner x By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the of the State of Texas http://www.statutes.legis.state.tx.us/SOTWDocs/CR/htm/CR.5.htm x By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction 	<p>As defined in 34 U.S.C. 12291(a)(8). Domestic Violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim:</p> <ul style="list-style-type: none"> x By a person with whom the victim shares a child in common x By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner x By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the of the State of Texas http://www.statutes.legis.state.tx.us/SOTWDocs/CR/htm/CR.5.htm x By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction
Non-Consensual Sexual Touching	<p>* Please see the definition of Sexual Assault and/or Sexual Harassment below.</p>	<p>A form of sexual harassment that consists of any intentional touching in a sexual manner, however slight or momentary, or</p>

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
		<p>that denigrates or shows hostility or aversion toward an individual or group;</p> <ul style="list-style-type: none"> x An intimidating, hostile or abusive learning or living environment or an environment that alters the conditions of learning; or x An unreasonable interference with an individual's academic performance <p>In the employment setting, Sexual Harassment includes an unwelcome sexual advance, a request for sexual favors, or other verbal or physical conduct of a sexual nature when conditioned on an individual's explicit or implied agreement to such conduct.</p>

Definition	Title IX Sexual Misconduct	UH System Sexual Misconduct
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APPENDIX B – Title IX Grievance Procedures

1. TITLE IX INVESTIGATIVE REPORT

- 1.1 Upon completion of the investigation report by a Title IX investigator and a determination that the alleged Sexual Misconduct is considered Title IX Sexual Misconduct, the University will hold a hearing during which both parties' Hearing Advisors will have the opportunity to present relevant evidence and ask questions of the parties and witnesses.

2. PREPARING FOR A HEARING

- 2.1 Absent extenuating circumstances, the Title IX Coordinator will schedule a hearing within fifteen (15) business days from the conclusion of the investigation.
- 2.2 Once the hearing is scheduled, requests to schedule the hearing must be submitted in writing to the Title IX Coordinator and will be considered by the Hearing Officer.

- 2.3 The Complainant and Respondent(s) will be notified of the identity of the Hearing Officer for their hearing. Within five (5) business days of the hearing date, the Title IX Coordinator will provide the Complainant and Respondent(s) with a copy of the hearing notice.

- 2.5 No witness, document, or tangible evidence will be permitted at the hearing unless such information was timely submitted.
- 2.6 It is the responsibility of the party wanting to present a witness to secure that witness.

3. TITLE IX HEARING

3.1 Roles and Responsibilities

3.1.1 Designated Representative

- A. A designated representative may be present at a hearing to serve as a resource to the Hearing Officer for sanctioning purposes in the case of a finding.

3.1.2 Hearing Advisor

- A. A Hearing Advisor is responsible for advising and acting on behalf of a named party to presentation of witnesses. Each party may have one (1) Hearing Advisor.
- B. A Hearing Advisor may present evidence, question witnesses and will conduct cross examination of the parties and witnesses. Each party will present their own opening and closing statements, which will be limited to fifteen (15) minutes each.
- C. Hearing Advisors shall not directly address the opposing Hearing Advisor or the opposing party outside of cross examination.
- D. Hearing Advisors and parties shall not cause unreasonable delays by failing to schedule or appear for a meeting as requested by a Hearing Officer.
- E. Hearing Advisors must adhere to the rules of decorum.

3.1.3 Hearing Officer

- A. The Hearing Officer may question any individual at any time during the hearing.

- B. The Hearing Officer may impose reasonable time limits on any stage of the hearing.
- C. The Hearing Officer may determine the relevance of, and place restrictions on, any witness testimony or questions or information

determination regarding responsibility is made at the conclusion of the grievance process.

- 3.3.3 The general course of the hearing procedure will be as follows, subject to the discretion of the Hearing Officer:
- A. The Hearing Officer will convene the hearing, introduce the individuals present, give a brief description of the process, invite questions about the process, and allow the parties the opportunity to present a brief opening statement
 - B. The Complainant or the Hearing Advisor for Complainant shall present evidence (including calling and questioning their own witnesses) to the Hearing Officer.
 - C. The Hearing Advisor for the Respondent shall have the opportunity to conduct cross-examination after the Hearing Advisor for the Complainant or the Complainant has completed questioning each of their own witnesses.
 - D. After all the Complainant's witnesses have been examined by both sides, the Respondent or the Hearing Advisor for the Respondent shall have the same opportunity to present their evidence and their own witnesses.
 - E. The Hearing Advisor for the Complainant shall have the opportunity to conduct cross-examination after the Hearing Advisor for the Respondent or the Respondent has completed questioning each of their own witnesses
 - F. After both parties have presented their witnesses, the Title IX representative may provide testimony and documentation regarding their investigation to the Hearing Officer. The Title IX representative may be questioned by the Hearing Advisors or Hearing Officer.
 - G. The Hearing Officer will allow the parties the opportunity to present a brief closing statement before concluding the hearing
- 3.3.4 At the request of either party, the University will provide the parties separate rooms and use technology so that the Hearing Officer and parties may simultaneously see and hear the questions. The hearing may also take

4.2.5 Parties may appeal erroneous relevance determinations during the hearing if they significantly affected the outcome; and

4.2.6 The sanctions are not commensurate with the violation(s) found.

4.3 The role of the appropriate administrator is to accept, reject, or demand the Title IX dismissal or Written Determination.

4.4 A Written Determination will become final upon the earlier of when:

- x The parties are notified of the appropriate administrator's decision on the appeal or
- x The time to file an appeal has passed with neither party appealing.

4.5 The appropriate administrator will review the

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APPENDIX C – UH System Sexual Misconduct Grievance Procedures

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- 2.3 The Title IX Coordinator will inform the parties of any new information. The parties will have the opportunity to respond to this information, and the Title IX Coordinator will consider the response(s) in deciding whether to reopen the investigation.
- 2.4 If the Title IX Coordinator decides to reopen the investigation, the process will resume at Section 14.6 – Investigation in the Policy

3. GROUNDS FOR HEARING FOLLOWING A TITLE IX INVESTIGATOR FINDING

- 3.1 A hearing request to challenge a Title IX investigator's finding(s) must be submitted in writing to the Title IX Coordinator within five (5) business days of receiving the finding(s).
- 3.2 The Complainant and the Respondent(s) both have the right to request a hearing to challenge

6. RESPONSIBILITIES OF THE PERSONAL ADVISOR

- 6.1 Parties may elect to bring a Personal Advisor for any hearing related to the System Sexual Misconduct Grievance Procedure.
- 6.2 An advisor will not be permitted to speak on behalf of the advisee, make an oral presentation, including an opening or closing argument, be a witness, or question witnesses, the Title IX representative, or the Panel during the hearing. A Personal Advisor may respond to a direct question from the investigator during a meeting or the Hearing Panel/Non-affiliated Hearing Officer during a hearing.
- 6.3

- 8.5 The Hearing Panel/Non-affiliated Hearing Officer may question any individual at any time during the hearing
 - 8.6 The parties may question their own witnesses, but they cannot directly question each other or any other party's witnesses.
 - 8.7 The parties may request that the Panel Chairperson/Non-affiliated Hearing Officer ask questions of another party or their witnesses by submitting proposed questions to the Panel Chairperson in writing either prior to, or during, the hearing.
 - 8.8 The Panel Chairperson/Non-affiliated Hearing Officer may determine which questions are relevant, and the Panel Chairperson/Non-affiliated Hearing Officer has the discretion to revise a question or to decline to ask the question.
 - 8.9 An audio recording of the hearing will be kept for the use of the Hearing Panel/Non-affiliated Hearing Officer and for any appeal.
 - 8.10 In cases where a moving party refuses to participate in the hearing, the Hearing Panel/Non-affiliated Hearing Officer will convene and make a decision based on the evidence and testimony available to the Hearing Panel/Non-affiliated Hearing Officer.
 - 8.11 This hearing process is an internal University process and not a formal courtroom process in which rules of evidence and courtroom procedures apply.
 - 8.12 Personal Advisors may attend the hearing and sit with their advisee during the hearing, communicate quietly orally and/or in writing with their advisee during the hearing, and may respond to a direct question from the Hearing Panel/Non-affiliated Hearing Officer.
 - 8.13 An advisor will not be permitted to speak on behalf of the advisee, make an oral presentation, including an opening or closing argument, or to question witnesses, the Title IX investigator, or the Hearing Panel/Non-affiliated Hearing Officer during the hearing.
 - 8.14 If the Hearing Panel/Non-affiliated Hearing Officer determines it is necessary or advisable, alternative testimony options will be available such as allowing a witness to appear via other virtual means (e.g., via teleconference or video conference).
9. HEARING PANEL/NON-AFFILIATED HEARING OFFICER DECISION
- 9.1 If a Hearing Panel is utilized

- x After the hearing has concluded, the three voting members of the Panel will deliberate in private.
- x The Hearing Panel's decision as described in Section 5.3 of these procedures will be by majority vote.

9.2 If a Non-a

- 10.2 The appropriate administrator can remand the case back to the Title IX office they find:
- x An error or procedural defect occurred during the investigation that could have significantly impacted the Title IX investigator's finding(s), or
 - x Further investigation is warranted for any other material reason.
- 10.3 The appropriate administrator can reject the Title IX investigator's finding(s) if they find:
- x The weight of the evidence does not support or is contrary to the Title IX investigator's finding(s); or
 - x An error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.
- 10.4 The appropriate administrator can remand the case back to the Hearing Panel/Nonaffiliated Hearing Officer if they find an error or procedural defect occurred during the hearing that could have significantly impacted the Hearing Panel/Nonaffiliated Hearing Officer's recommendation(s), or which caused harm to either party

consistent with the University's faculty handbook/manual.

- 11.3 If there is a finding of a violation of this Policy against a ~~faculty~~ University employee, any sanction imposed on the employee will be determined and implemented by the appropriate administrator ~~after consultation~~ with the Title IX Coordinator and consistent with the ~~University's~~ policies and procedures related to employee discipline.
- 11.4 If there is a finding of a violation of this Policy against a student, any sanction imposed on the student will be ~~determined~~ and imposed by the Dean of Students Office or its equivalent after consultation with the Title IX Coordinator ~~and~~ consistent with the University's policies and procedures related to student discipline
- 11.5 The sanctions for committing an act of UH ~~System~~ Sexual Misconduct will be commensurate with the offense and may include, but are not limited to, the following:
 - x Probation (including disciplinary probation)
 - x Temporary or permanent ban from campus locations (such as residence hall communities)
 - x Educational programs such as state-

- 11.6 If a student is issued a sanction that makes them ineligible to reenroll in the University, the University will include on the student's transcript a notation

recurrence.

12.3