

## **SECTION II: TITLE IX**

### **2.1 Title IX Grievance Procedures**

In accordance with Title IX, 34 CFR Part 106, and university standards, High Point University is committed to operating educational programs and activities that are free from sex-based and gender-based discrimination and sexual misconduct. This mission also extends to admissions and employment. HPU takes all allegations of sex-based and gender-based discrimination and sexual misconduct seriously. We welcome your involvement in fostering a campus community that strives to prevent sex-based and gender-based discrimination and sexual misconduct in all their forms and to compassionately respond to and support the parties involved.

The university's Title IX Coordinator is responsible for the administration and coordination of High Point University's Title IX-related policies, programs, and compliance efforts. The scope of these responsibilities includes, among other things, oversight of complaint resolution, resources, communications, and training in connection with Title IX's prohibition of discrimination based upon sex or gender. The Title IX Coordinator can answer questions and address any concerns about Title IX, 34 CFR Part 106, and university policy. Inquiries about the application of Title IX and 34 CFR Part 106 may also be referred to the Assistant Secretary at the Office for Civil Rights (U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250, Mail Stop 0115, phone: (202) 720-3808). High Point University's grievance process can be found below and on High Point University's Title IX and Sexual Misconduct web page (<http://www.highpoint.edu/title-ix/>).

### **2.2 How to Report**

Any person may report sexual harassment, sex/gender-based discrimination, and/or sexual misconduct, whether or not the person reporting is the person who is the victim of alleged misconduct.

HPU takes all allegations of sexual misconduct seriously. When an incident involving an allegation of sexual misconduct is made against a student or applicant for admission, the incident should be reported to the Title IX Coordinator or online using the Title IX/Sexual Misconduct Form – Student Misconduct on the HPU Title IX website (<http://www.highpoint.edu/title-ix/>).

When an incident involving an allegation of sexual misconduct is made against an employee or applicant for employment, the incident should be reported online using the Title IX/Sexual Misconduct – Employee Misconduct Form on the HPU Title IX website (<http://www.highpoint.edu/title-ix/>) and Human Resources website (<http://www.highpoint.edu/administration/human-resources/>) or by contacting the following resources at any time:

**Kayla Rudisel, JD**  
**Title IX Coordinator**  
**TitleIX@highpoint.edu**  
**336-841-9138**  
**317 Slane Student Center**  
**High Point University**  
**One University Parkway**  
**High Point, NC 27268**

**Whitney Neal**  
**Human Resources Director**

**Deputy Title IX Coordinator**  
**WNeal@highpoint.edu**  
**336-841-9451**  
**1911 N. Centennial Street**  
**High Point University**  
**One University Parkway**  
**High Point, NC 27268**

*In case of an emergency, contact law enforcement at 911 or HPU Security at 336-841-9111.*

## **2.3 Required Reporting**

All HPU employees, except for confidential resources detailed below, are required to report instances of sexual misconduct or sexual harassment to the Title IX Coordinator.

### **On-Campus Student Confidential Resources**

Counseling: 336-888-6352  
Emergency Counseling After Hours: 336-841-9112 (Referred by Security)  
Minister to the University: 336-841-9241  
Minister/Clergy in Residence: 336-841-9828  
Sport's Chaplain: 336-307-1629  
Manager of Chapel Programs: 336-841-9132  
Student Health: 336-841-4683

## **2.4 Scope and Jurisdiction**

This policy applies to complaints about conduct by staff members that takes place on the campus or on property owned or controlled by HPU, at HPU-sponsored events, or in buildings owned or controlled by HPU.

This policy can also be applicable to off-campus misconduct that effectively deprives someone of access to HPU's educational program. HPU may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial HPU interest.

Regardless of where the conduct occurred, HPU will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial HPU interest includes, but is not limited to, the following:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeated violations of any local, state, or federal law;
- b. Any situation in which it is determined that HPU poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of the HPU.

If the Respondent is unknown or is not a member of the HPU community, the Title IX Coordinator will assist the

Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the HPU's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the HPU may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from HPU property and/or events.

All vendors serving the HPU through third-party contractor are subject to the policies and procedures of their employers, and are expected to follow the conduct guidelines of HPU with performing services on campus.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to advocate for a Complainant who experiences discrimination in an externship, study abroad program, or other environment external to HPU where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

## **2.5 Definitions: Violations of University Title IX Policy**

The Department of Education's Office for Civil Rights (OCR) regards sexual harassment as an unlawful discriminatory practice. Sexual harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

HPU takes all allegations of sexual misconduct seriously.

- When an incident involving an allegation of sexual misconduct is against a student or a faculty member the applicable Title IX policy can be found on the Title IX and Sexual Misconduct webpage (<http://www.highpoint.edu/title-ix/>).
- When an incident involving an allegation of sexual misconduct is against a staff member, the definitions below serve as potential Title IX policy violations and conduct that the University prohibits.

Complainant is an individual who is the reported victim of conduct that could constitute sexual misconduct.

Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct.

HPU has adopted the following definition of sexual harassment in order to address the unique environment of an academic community.

### **Dating Violence, defined as:**

- a. Violence,

- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the complainant.
  - i. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii. Dating violence does not include acts covered under the definition of domestic violence.

**Domestic Violence, defined as:**

- a. Violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the complainant,
- d. by a person with whom the complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of North Carolina or
- g. by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of North Carolina.

\*To categorize an incident as Domestic Violence, the relationship between the respondent and the complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**Stalking, defined as:**

- a. Engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

### **Sexual Assault, defined as:**

Sex Offenses, Forcible: Any sexual act directed against another person, without the consent of the complainant, including instances in which the complainant is incapable of giving consent.

a) Forcible Rape:

- i) Penetration,
- ii) no matter how slight,
- iii) of the vagina or anus with any body part or object, or
- iv) oral penetration by a sex organ of another person,
- v) without the consent of the complainant.

b) Forcible Sodomy:

- i) Oral or anal sexual intercourse with another person,
- ii) forcibly,
- iii) and/or against that person's will (non-consensually), or
- iv) not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age<sup>1</sup> or because of temporary or permanent mental or physical incapacity.

c) Sexual Assault with an Object:

- i) The use of an object or instrument to penetrate,
- ii) however slightly,
- iii) the genital or anal opening of the body of another person,
- iv) forcibly,
- v) and/or against that person's will (non-consensually),

- vi) or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- d) Forcible Fondling:
- i) The touching of the private body parts of another person (buttocks, groin, breasts, etc.),
  - ii) for the purpose of sexual gratification,
  - iii) forcibly,
  - iv) and/or against that person's will (non-consensually),
  - v) or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sex Offenses, Non-forcible:

- e) Incest:
  - i) Non-forcible sexual intercourse,
  - ii) between persons who are related to each other,
  - iii) within the degrees wherein marriage is prohibited by North Carolina law.
- f) Statutory Rape:
  - i) Non-forcible sexual intercourse,
  - ii) with a person who is under the statutory age of consent of North Carolina.

**Sexual Harassment**

Sexual harassment is defined as unwelcome conduct determined by a reasonable person to be so *severe, pervasive, and objectively offensive* that it effectively denies a person equal access to the HPU's education program or activity.

**Quid Pro Quo Sexual Harassment**

Quid Pro Quo is defined as an employee of the HPU conditioning the provision of an aid, benefit, or service of HPU on an individual's participation in unwelcome sexual conduct.

**Consent**

Consent is

- voluntary,
- freely given,
- informed,
- positive cooperation in act and attitude,
- revocable at any time, and
- ongoing throughout a sexual encounter.

Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A

current or previous dating or marital relationship shall not be sufficient to constitute consent. Consent to some form of sexual activity does not imply consent to other forms of sexual activity.

- Consent may not be assumed. If there is any ambiguity or confusion a person involved should stop the activity and clarify and confirm consent. Once consent is withdrawn, the sexual activity must stop immediately.

Consent is not freely given if:

- It is obtained through the use of force, through the fear of or the threat of force, intimidation, coercion, or by kidnap;
- The individual has acted or spoken in a manner which expresses they refuse to give consent.
- the complainant was unable to give consent for any of the following reasons:
  - The individual is unable to make an informed decision due to incapacitation;
  - The individual is unconscious, asleep, or suffering from shock;
  - The individual is under the statutory age of consent; or
  - The individual has a permanent or temporary mental disorder or developmental or physical disability, and therefore legally unable to give consent.

Coercion is the practice of forcing another party to act in an involuntary manner by use of intimidation or threats or some other form of undue pressure or force. Coercion may include the use of emotional manipulation to persuade someone to do something the person does not want to do.

Incapacitation is the state where someone cannot make rational, reasonable decisions due to a lack of capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, and how” of the sexual interaction) due to alcohol, prescribed medication, predatory drugs, or other drugs.

## **Prohibition of Retaliation**

Retaliation is defined as intimidation, threats, coercion, or discrimination for the purpose of interfering with any right or privilege secured by Title IX or against an individual for engaging in protected activity. Protected activity consists of (1) making a report or complaint about conduct reasonably believed to constitute a violation of the University’s Title IX or (2) testifying, assisting, or participating in any manner in an investigation or other proceeding related to such a complaint. Retaliation is prohibited under HPU’s Title IX Policy.

## **2.6 REPORTING A POTENTIAL VIOLATION OF THE TITLE IX POLICY**

Complaints of violations of High Point University’s Title IX Policy may be reported at any time, regardless of the length of time between the alleged misconduct and the decision to file a complaint. Complainants are encouraged to make reports as soon possible after the alleged conduct occurs in order to best preserve any evidence for the University to investigate the facts, determine the issues, and provide an appropriate remedy or disciplinary action regardless of a police report being filed. However, this does not mean that the desired resolution is impossible. Individuals are encouraged to meet with the Title IX Coordinator or Deputy Title IX Coordinators at any time to discuss options. Complainants also are encouraged to report incidents of sexual misconduct to the local police department by calling 911 or HPU Security at 336-841-9111.

### **1. Filing an anonymous complaint**

- a. A complainant can file an anonymous complaint using the reporting form on the HPU Title IX website (<http://www.highpoint.edu/title-ix/>). The purpose of an anonymous report is to comply with the

complainant's wish to keep the matter private, while taking steps to ensure the future safety of the complainant and others. With such information, the University can keep an accurate record of the number of incidents involving individuals, determine where there is a pattern of misconduct with regard to a particular location, method, or individual, and alert the campus community to potential danger.

- b. If the complainant decides to file a complaint anonymously and is a victim of alleged sexual misconduct, the University encourages the individual to seek out the available medical and mental health resources. Individuals who wish to make a formal complaint at a later date may contact the Title IX Coordinator at any time.

## **2. Filing an informal complaint**

- a. If a complainant does not request a formal investigation process, they can still access reasonable supportive measures such as mutual no contact order, office alternatives, and other supports.
- b. If the complainant requests that their name or other identifying information not be shared with the respondent or that no formal action be taken, the Title IX Coordinator will balance the request against the following factors to determine whether the request can be honored:
  - i. The nature and scope of the alleged conduct, including whether the reported conduct involves the use of a weapon;
  - ii. The respective ages and positions of the complainant and respondent;
  - iii. The risk posed to any individual or the campus community by not proceeding, including but not limited to, the risk of additional violence;
  - iv. Whether there have been other reports of conduct by the respondent;
  - v. Whether the report reveals a pattern of misconduct at a given location or by a particular individuals or group;
  - vi. The complainant wishes to pursue disciplinary action;
  - vii. Whether the University has other means to obtain relevant evidence;
  - viii. Considerations of fundamental fairness process to the respondent; an
  - ix. The University's obligation to provide a safe and nondiscriminatory environment.

## **3. How to file a formal complaint**

- a. Formal Complaint means a document filed/signed by a complainant or signed by the Title IX Coordinator alleging the respondent violated the Title IX policy and requesting that HPU investigate the allegation.
- b. A formal complaint can be filed with the Title IX Coordinator in person, via mail, email, or by using the contact information detailed above.
- c. The Title IX Coordinator reserves the right to initiate a formal complaint and the investigation process without a formal complaint from or against the wishes of the complainant.

## **4. Title IX Coordinator authority to consolidate complaints**

If two or more persons have an agreement/plan to intentionally carry out prohibited conduct, each person may be deemed responsible for such prohibited conduct. Formal complaints as to allegations of sexual misconduct may be consolidated when the allegations of sexual misconduct arise out of the same facts or circumstances.

## **5. Mandatory and Discretionary Dismissal of Formal Complaint**

The University is committed to responding promptly and effectively when it learns of any form of possible

discrimination based on sex or gender. Title IX is a federal civil rights law in the United States of America that was passed as part of the Education Amendments of 1972. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Title IX addresses many forms of sexual misconduct. However, Title IX does not address all the forms of sexual misconduct that High Point University prohibits in our community (see Section 3.2, Discrimination and Harassment)

Title IX does not address conduct alleged in the formal complaint if:

1. It would not constitute sexual harassment as defined under Title IX even if proved,
2. It did not occur in the University’s education program or activity,
3. It did not occur against a person in the United States, or if
4. The complainant was not participating in or attempting to participate in the education program or activity\* of the University at the time of filing.

\*Education program or activity includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.\*

In compliance with federal law, the parties will receive a notice of “dismissal” if reported conduct does not constitute conduct prohibited by Title IX. However, the reported conduct may still constitute a violation of another HPU policy.

The Title IX Coordinator may dismiss a formal complaint if:

1. A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the formal complaint or any allegations in the complaint,
2. The respondent is no longer enrolled or employed by the University, or
3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations in the complaint.

The Title IX Coordinator will promptly send written notice of the dismissal, including the reason(s) for the dismissal to both parties. Both parties have to opportunity to appeal the dismissal of a formal complaint or any allegations in the formal complaint in the manner set forth in the Appeal Procedures section.

A dismissal does not preclude action under another provision of the University policy. Even if the University is unable to take disciplinary action, the University will seek to take any prompt and effective steps to prevent sexual misconduct from occurring.

## **2.7 Impartial, Equitable, And Prompt Proceeding**

The University endeavors to maintain a prompt, equitable, and impartial proceeding.

Any rights or opportunities that the University makes available to one party during the investigation will be made available to the other party on equal terms.

All proceedings and meetings will be conducted by officials who do not have a conflict of interest or bias for or against complainant(s) or respondent(s) generally or an individual complainant or respondent. Due to availability, absences, conflict of interest, etc., employees may delegate their duties to another trained person upon approval by the Title IX Coordinator. All employees involved in the formal complaint process are trained as required by applicable law.

The university will conduct a timely investigation. The process allows for the reasonable extension of time frames for good cause and with written notice to the complainant and respondent of the delay and reason for the delay. The Title IX Coordinator maintains discretion to reasonably advance the process. The university will give timely notice of proceedings and meetings.

## **1. Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge. Supportive measures are available to both complainants and respondents before or after the filing of a formal complaint, or where no formal complaint has been filed.

The University will maintain as confidential any supportive measures provided to the parties, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

These supportive measures may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Education to the community or community subgroup(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Timely Warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

## **2. No Contact Orders**

A No Contact Order may be imposed at the request of a party or the discretion of a Title IX Coordinator. When a No Contact Order is put in place, the party must refrain from:

- a. Approaching one another at any time;
- b. Calling one another at any time;
- c. Communicating electronically (email, text, social media);
- d. Contacting or communicating with one another through a third party (including friends and/or family), in any way, at any time.

- e. Other terms outlined in the No Contact order that may be required specific to the terms of the case.

A No Contact directive implies no judgment or discipline. When a No Contact directive is issued, individuals may be required to move to a temporary office space or may be temporarily removed from a shared classroom as a means to create space for the situation to be resolved.

Individuals may encounter one another in public spaces on campus. In keeping with the spirit of the no contact directive, if the persons encounter one another in public spaces or events, including yet not limited to, Cafeteria, Promenade, academic buildings, sporting events, food venues, Cinema, or University concerts, they are to refrain from intentionally engaging one another visually, verbally, or through a third party.

Violations of no contact orders will be referred to appropriate disciplinary processes for enforcement.

### **3. Administrative Leave**

HPU may place a respondent on paid or unpaid administrative leave during the pendency of this grievance process.

### **4. Parties Rights**

Once a report is made to the Title IX Coordinator equal access and resources are given to both the complainant and respondent.

#### ***Right to Notify Law Enforcement***

Each party has the right to report an incident of sexual misconduct or other criminal activity to campus security or local law enforcement.

#### ***Right to Supportive Measures***

Each party will have the opportunity to access supportive measures.

*Once a formal complaint is filed the following rights attach:*

#### ***Right to an Advisor***

Resolving a complaint through the Title IX process can be a challenging experience and for that reason both parties are encouraged to seek the assistance of an advisor to support and accompany them through the process. Each party may have one (1) advisor present with them for support throughout the proceedings.

The advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the grievance process. The university maintains a pool of trained advisors who are university employees that the parties may choose from.

If a party is unable to arrange an advisor on their own within five (5) days of receipt of the Notice of Investigation (NOI), the Title IX Coordinator may assign the party a university-trained advisor.

It may be helpful to inform the advisor of all meetings and deadlines as soon as the parties are made aware so that the advisor can provide their advisee with prompt support.

#### ***Right to Notice of Investigation***

Each party will be notified of the University's investigation via a Notice of Investigation (NOI) letter. The NOI will reiterate the investigation proceedings as well as their rights to an advisor and campus resources.

### ***Right to Present Evidence***

Each party will have an equal opportunity to present witnesses and other evidence.

### ***Right to Notification of Outcome***

Each party will be informed of the outcome of the hearing board proceeding and any appeal in writing, including any applicable sanction(s).

### ***Right to Appeal***

Both parties have to opportunity to appeal a determination regarding responsibility and a dismissal of a formal complaint or any allegations in the complaint to the Executive Committee. See Appeal Procedures Section.

## **2.8 Investigation of Formal Complaints**

1. The Title IX Coordinator will inform the respondent and complainant in writing of the investigation.
2. The Investigator will investigate the claims. The Investigator is primarily responsible for the investigation of the reported conduct. The investigation is a neutral fact gathering process.
3. The Investigator will:
  - a. Conduct a fact-finding inquiry or investigation into the complaint, including appropriate interviews and meetings with each party and witnesses.
  - b. Create, gather, and maintain investigative documentation, as appropriate.
  - c. Disclose appropriate information to others only on a need to know basis, consistent with state and federal law.
  - d. Handle all data in accordance with applicable federal and state privacy laws.
  - e. Prepare a written investigation report summarizing the investigation. The investigator will determine the relevance of any proffered evidence and to exclude irrelevant evidence from the investigation report.
  - f. Both parties may inspect and review any evidence obtained as part of the investigation that is directly related to the reported conduct contained in a formal complaint.
4. To help ensure a prompt and thorough investigation, the parties are encouraged to provide as much of the following information as possible:
  - a. A description of any relevant incident(s), including the date(s) and location(s)
  - b. The identities/names of any relevant witnesses.
  - c. Any relevant information, documentation, or electronic media.
  - d. Any other information believed to be relevant to the reported behavior.
  - e. A written statement addressing the reported conduct.
4. After receiving the report prepared by the Investigator, the Title IX Coordinator sends to each party and the party's advisor, if any, the investigation report. Each party will have 10 calendar days to submit a written response to the Title IX Coordinator.
5. Title IX Coordinator will refer the matter to the Hearing Chair, who will take the following actions:
  - a. Review the Hearing Board Procedures.
  - b. Schedule and manage the Title IX Hearing Board.
  - c. Notify both parties of the date, time, and location of the Title IX Hearing Board.
6. A Title IX Hearing Board will take place between 7 - 21 calendar days after the parties receive their final copy of the investigation report.

Estimated Timeline: 60 - 90 days from filing a formal complaint to hearing board outcome. Each case is unique, and the process for handling the incident may be impacted by factors such as the complexity of the investigation, the scope of the allegation, the parties' schedules and availability, and/or the academic calendar. Although the University will make best efforts to complete the process based on the estimated timelines outlined in the policy, there may be a need to exceed any of the stated timelines. The University will provide the parties with periodic status updates, as available, throughout each step of the grievance process and notify the parties if any part of the process will exceed the estimated timeframe.

## **2.9 Title IX Hearing Board Procedures**

A Title IX Hearing Board consists of a panel of trained justices and the Hearing Chair. The Hearing Board is used to determine responsibility, along with appropriate sanctions. The Hearing Chair is responsible for determining whether a question is relevant and explaining any decision to exclude a question as not relevant. If the Title IX Hearing Board determines responsibility, the Chair will provide any prior violations of University policy to the panel to consider appropriate sanctions.

### **1. Standard of Evidence**

High Point University uses a preponderance of the evidence as its standard of evidence in all disciplinary and Title IX matter. This means that the information needs to show that it is "more likely than not" that a violation of the policy occurred.

The respondent is presumed to be not responsible. The presumption may be overcome only where there is sufficient evidence by a preponderance of evidence to support a finding that the respondent is responsible for violating University policy.

### **2. Hearing Format**

- a. The Hearing Chair will read the charge(s) to which the respondent must respond, "not responsible," or "responsible," for each.
- b. The complainant has the option, but is not required, to provide a brief verbal or written opening statement addressing the charges. Upon request by the complainant, the hearing chair, in its discretion, may read the written statement out loud or provide copies of the written opening statement to the hearing board and the respondent.
- c. Following an opening statement, the hearing panel will ask the complainant questions. Once the hearing panel has completed its questioning, the respondent's advisor may question the complainant. The hearing chair will determine if the question(s) are relevant and will explain any decision to exclude a question as not relevant.
- d. The respondent has the option, but is not required, to provide a brief verbal or written opening statement addressing the charges. Upon request by the respondent, the hearing chair, in its discretion, may read the written statement out loud or provide copies of the written opening statement to the hearing board and the complainant.
- e. Following an opening statement, the hearing panel will ask the respondent questions. Once the hearing panel has completed its questioning, the complainant's advisor may question the respondent. The hearing chair will determine if the question(s) are relevant and will explain any decision to exclude a question as not relevant.
- f. Following the parties' presentations of evidence, the hearing chair will call each witness to be questioned by the hearing panel. Once the hearing panel has completed its questioning, the parties' advisor may question the witness(es), or parties may submit questions in writing to the hearing chair. The hearing chair will determine if the question(s) are relevant and will explain any decision to exclude

- a question as not relevant.
- g. The Investigator will be available as a witness to address questions related to the report or investigation proceedings as needed by the complainant, respondent, and/or Title IX hearing board.
  - h. The complainant has the option, but is not required, to provide a brief closing statement or impact statement presenting any final remarks. Following the closing statement, the hearing panel may ask any additional questions for the complainant. The respondent's advisor may question the complainant. The hearing chair will determine if the question(s) are relevant and will explain any decision to exclude a question as not relevant.
  - i. The respondent has the option, but is not required, to provide a brief closing statement or impact statement presenting any final remarks. Following the closing statement, the hearing panel may ask any additional questions for the respondent. The complainant's advisor may question the respondent. The hearing chair will determine if the question(s) are relevant and will explain any decision to exclude a question as not relevant.
  - j. Once the closing statements and inquiry is complete, the justices will deliberate in private. The justices shall evaluate the evidence and decide, based on a preponderance of the evidence, an outcome of responsible or not responsible and, if responsible, determine appropriate sanctions. A decision is reached by a majority of the justices.

Both the complainant and respondent will be notified in writing of the outcome of the hearing, if applicable, corresponding sanctions, and appeals process by the Hearing Chair.

The determination regarding responsibility becomes final either on the date that the HPU provides the parties with the written determination of the result of the appeal, if an appeal is filed; or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

### ***3. Arrangements for Hearings***

All parties, witnesses, and other participants may appear at the live hearing virtually with technology enabling participants to see and hear each other simultaneously. At the request of either party, the university will consider conducting an in-person hearing.

The University will create an audio or audiovisual recording of any hearing and make it available to the parties for inspection and review at any time. Requests to review recordings may be submitted to the Title IX Coordinator in writing. However, the recording may not be released to either party without consent of all involved or if required by applicable law. Individuals may request a written transcription of the hearing recording, however, any cost associated with this transcription may be passed on to the party making the request.

If any ADA accommodation are needed, please advise the Title IX Coordinator no later than (3) three days prior to the scheduled hearing.

### ***4. Witnesses and Evidence***

All witnesses, evidence, and information should be presented to the investigator prior the conclusion of the investigation. Any information or evidence submitted will be shared with the other party at least 10 days prior to the Title IX Hearing.

Each party will have an equal opportunity to present witnesses and other evidence. Any credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

If a party or witness does not submit to questioning during the hearing, the justices cannot rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the justices cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant unless such questions and evidence about the complainant's prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the complainant and are offered to prove consent.

The University cannot require, access, consider, disclose, allow, rely upon, seek disclosure of, or otherwise use a party's protected records or information without the voluntary, written consent of the relevant party or individual. Protected records or information, include but is not limited to the following:

- 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; and
- Information protected under a legally recognized privilege (e.g. attorney-client, married individuals, clergy and communicant, psychotherapist and patient, physician and patient, etc.)

## 2.10 SANCTIONS

Sanctions are designed to hold individuals accountable for their actions and to protect the safety of the university community. Sanctions are also designed to restore or preserve equal access to the University's education program or activity.

The following may be considered:

1. The threat or use of a weapon
2. The presence of a pattern and/or practice of behavior
3. The gravity of a respondent's actions
4. The respondent's intent
5. The respondent's past conduct record even if those allegations did not result in a finding or outcome
6. Power imbalance between the parties

The Title IX Hearing Board will determine employee sanctions for each policy violation pursuant to the following guidelines:

- The minimum sanctions for Dating Violence, Domestic Violence, Forcible Fondling, Incest, Stalking, Retaliation, Sexual Harassment, and Quid Pro Quo Sexual Harassment are final written warning.
- The minimum sanctions for Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Statutory Rape are suspension without pay or termination.

### **The following sanctions may be utilized in response to any of the above violations:**

Loss of privileges, residential and/or campus bans, no contact order, removal from educational program/project/class, counseling referral, educational conversation with faculty or staff, community service warnings or reprimands, censure, modified teaching or research responsibilities, removal from the classroom, removal from committees and programs (including exclusion from travel, personnel committees, internal research funds, working with students, or other sanctions), reassignment, denial of salary increase, salary

reduction, fines or restitution , removal from administrative position, demotion in academic rank, mandatory counseling or training, involuntary leave of absence, any other university sanctions, or any other appropriate reformative sanctions

## **2.11 Appeal Procedures**

1. Both parties have the opportunity to appeal a determination regarding responsibility and a dismissal of a formal complaint or any allegations in the complaint to the Executive Committee within five (5) calendar days of the issuance of the decision. Appeals are submitted by completing the online appeal form that will be included in any decision letter from the Title IX Hearing Board or can be found on the Title IX and Sexual Misconduct webpage.
2. If neither party requests an appeal within the (5) calendar day timeline, any sanction will take effect immediately at the end of the (5) calendar day appeal timeline. Appeals are limited to 1,500 words, including attachments. Grounds for the appeal must be clearly and concisely stated, and all relevant information substantiating the grounds for appeal should be included. The following constitute appropriate grounds for appeal:
  - a. the procedural irregularity that affected the outcome,
  - b. new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter, or
  - c. Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against complainant or respondent generally or the individual complainant or respondent that affected the outcome of the matter.
3. Mere dissatisfaction with Title IX Hearing Board or Dismissal outcome is not a valid basis for appeal. In addition, appeals are not intended to be a rehearing of the matter. The scope of the appeal will be limited to the grounds for appeal included in the written appeal submissions. In any request for an appeal, the burden of proof lies with the party requesting the appeal, because the outcome will be presumed to have been decided reasonably and appropriately.
4. A trained HPU staff member will assess the written appeal to determine whether it is properly filed, based on permissible grounds, and in compliance with word count limitations. If it is determined that the written appeal does not meet any of these criteria, the appeal will be denied without review by the Executive Committee.
5. Once the appeal is filed, the other party will be notified of the appeal in writing. If the appeal is determined to be properly filed, the other party will be given an opportunity to review and respond to the written appeal. Responses to written appeals are due five (5) days after receipt of a copy of the appeal and are limited to 1,500 words. If both parties have filed an appeal, the appeal documents from each party will be considered together in one appeal review process. Each party will be provided the other party's appeal statement and may provide a response to the other party's written appeal. Responses to written appeals are due five (5) days after receipt of a copy of the appeal and are limited to 1,500 words.
6. Once an appeal is received and determined to meet the criteria for filing an appeal, the Executive Committee may, at its discretion, choose to hold a meeting, or it may decide the matter based on the written submissions. If strictly necessary and at the discretion of the Executive Committee, it may interview or request documentation from any individual to gather more information about basis for the appeal. After reviewing all submitted materials, the Executive Committee may:
  - a. affirm the outcome;
  - b. return the matter to the original or a newly constituted Title IX Hearing Board with instructions to cure the procedural error, perceived conflict of interest/bias, or to consider the new evidence
  - c. return the matter to the original or a new investigator with instructions to cure the procedural error, perceived conflict of interest/bias, or to consider the new evidence;
  - d. change the sanctions;

- e. overturn the dismissal.
- 7. Decisions by the Executive Committee are by a majority vote of Executive Committee members present and participating in the appeal consideration.
- 8. The outcome (including rationale for the result) of the Executive Committee will be made in writing to both the complainant and respondent. All decisions by the Executive Committee are final.

Estimated Timeline: 50 - 55 days from request to decision. However, each case is unique, and the process for handling the incident may be impacted by factors such as the complexity of process, the scope of the allegation, the parties' schedules and availability, and/or the academic calendar. Although the University will make best efforts to complete the process based on the estimated timeline, there may be a need to exceed this timeline. The University will provide the parties with periodic status updates, as available, throughout each step of the process and notify the parties if any part of the process will exceed the estimated timeframe.

## **2.12 INFORMAL RESOLUTION PROCESS (IRP)**

At the request of either the complainant or respondent in writing, the University may facilitate an informal resolution process (IRP) that does not involve a full investigation and hearing. The University has chosen to offer IRP as an option for parties to choose a resolution that is best for them, while still serving the safety and educational needs of the campus community. Where circumstances allow for this, the Informal Resolution Process will be initiated as soon as possible after the filing of a formal complaint and the conclusion of an initial intake meeting. However, an IRP may be requested any time prior to the Title IX Hearing Board rendering its decision

The IRP process is voluntary, and both the complainant and respondent must consent in writing to participating in the IRP process. The University will 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 an investigation and adjudication of formal complaints.

The request for IRP must be made after a formal complaint has been made, both parties have been provided with written notice of the allegations and possible options for resolution.

### *1. Is IRP appropriate?*

The Title IX Coordinator will determine whether the request for IRP is appropriate for the particular Title IX complaint. In addition, IRP is not appropriate to resolve an allegation that any HPU employee has sexually harassed a student. The Title IX Coordinator may deny a request for IRP if the Title IX Coordinator determines that IRP would not be appropriate for the unique allegations and circumstances, even if both the complainant and respondent consent to the request.

### *2. How to submit a request for IRP*

Informal resolution requests must be submitted, in writing, to the *Title IX* Coordinator and include the following:

- a. An explanation of why the party is requesting the IRP in lieu of the formal proceedings.
- b. An overview of what the party would like to communicate to the other party involved.

Once the written request is received, and the University determines the request is appropriate for the particular complaint, the University will provide written notice of the request, allegations, and the requirements, rights, and consequences of IRP to both parties. To proceed with IRP both parties will have to give voluntary, written

consent.

### *3. Participating in IRP*

IRP may include a broad range of strategies, including, but not limited to mediation or restorative justice and may be conducted by any means (in-person, virtually, email, etc.) the Title IX Coordinator determines to be appropriate, based on factors such as the nature of the complaint, the desires of the parties, and any other relevant considerations. The Title IX Coordinator may facilitate the IRP or assign a facilitator as appropriate. If either party believes that the assigned facilitator of IRP has a conflict of interest or bias, they should notify the Title IX Coordinator immediately. If the Title IX Coordinator is the facilitator, either party should notify the Senior Vice President of Business and Financial Affairs if a party believes that the Title IX Coordinator or Title IX Deputy has a conflict of interest or bias.

Any resolution through IRP must be mutually agreed upon in writing by the parties involved, and this written agreement will become the final outcome of the case. The outcome of IRP may result in disciplinary measures against the respondent. At any time prior to agreeing to a resolution in writing, any party has the right to withdraw from IRP and resume the formal complaint process. The facilitator is prevented from participating in a formal resolution process as a witness, Hearing Chair, or justice.

The Title IX Coordinator maintains records of any resolution that is reached in accordance with the records retention section of this policy.

Estimated Timeline: 7 - 14 days from request to resolution. However, each case is unique, and the process for handling the incident may be impacted by factors such as the complexity of process, the scope of the allegation, the parties' schedules and availability, and/or the academic calendar. Although the University will make best efforts to complete the process based on the estimated timeline, there may be a need to exceed this timeline. The University will provide the parties with periodic status updates, as available, throughout each step of the grievance process and notify the parties if any part of the process will exceed the estimated timeframe.

## **2.13 PRIVACY AND MAINTENANCE OF RECORDS**

High Point University will take precautions to preserve the privacy of both the complainant and respondent during the investigation of a reported violation of the Title IX policy. The school will keep confidential the identity of complainant, respondent, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding and as further described in this policy.

However, the University must handle information and records regarding an alleged Title IX report in accordance with applicable law. For example, in instances of potential imminent harm to the community, the University may be required by federal law to inform the community of the occurrence for the protection of all members of the community.

Documents prepared in anticipation of any hearing, such as pre-hearing submission, notices of hearing testimony and information submitted at the hearings may not be disclosed outside the investigation and hearing proceedings, including with advisors, except as may be required or authorized by law. The University maintains records related to Title IX, including investigations, appeals, resolutions, training, and supportive measures in accordance with Title IX regulations or as otherwise required by law.

The University, in accordance with Title IX compliance, will to the extent practicable, try to comply with the wishes of the individual regarding their request for confidentiality or not pursuing a hearing. The University will take such requests seriously; however, such requests may limit the University's ability to investigate and take reasonable action. Under federal law, the University may be required to move forward with an investigation and take reasonable action in response to the complaint, no matter if these steps may be limited by a request for confidentiality. Title IX requires the University to evaluate the request of the complaint next to the University's concern for the safety, wellbeing, and non-discriminatory environment.

The University, in accordance with Title IX, will maintain all records relating to complaints, investigations, hearings, appeals, IRP, sanctions, remedies, supportive measures and any training materials for seven (7) years from the date the record is created.