



Formal Grievance Protocol

*As Required by the U.S. Department of Education Title IX Regulations
(34 C.F.R. § 106.45)*

Effective August 1, 2022¹

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¹ Vanderbilt will review, evaluate, and make any revisions or amendments to its policies and processes on an ongoing and as-needed basis.

I. Purpose

The Formal Grievance Protocol (“FGP”) is a part of Vanderbilt University’s (“Vanderbilt”) [Sexual Misconduct Policy](#). The FGP addresses allegations of certain types of sexual misconduct as defined in accordance with the Title IX Regulations (34 C.F.R. Part 106) and the processes for responding to these allegations. Conduct prohibited under this FGP is defined in [Section IV](#) and [Section V](#). Citations within the FGP refer to applicable sections of the Title IX Regulations.

The Vanderbilt [Sexual Misconduct Policy](#) (“SMP”) addresses additional conduct constituting Sexual Misconduct² under university policy and the processes for responding to allegations of Sexual Misconduct that are outside the scope of the FGP.

II. Scope

The Policies apply to all members of the Vanderbilt Community, guests, and visitors with respect to conduct that occurs on campus or at Vanderbilt-sponsored activities.

When alleged Sexual Misconduct meets both of the following criteria, it must be addressed under the FGP processes, and not under the [SMP](#) processes, to the extent the processes differ:

- **Definitional Requirement:** conduct on the basis of sex that constitutes Sexual Harassment, as defined in [Section IV](#);
- **Jurisdictional Requirement:** conduct that relates to a Vanderbilt “education program or activity” and that occurs in the United States.
 - An “education program or activity” includes:
 - locations, events, or circumstances where Vanderbilt exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and
 - any building owned or controlled by a student organization that is officially recognized by Vanderbilt.
 - The Title IX Regulations exclude any “education program or activity” that does not occur in the United States.

² Capitalized terms are defined terms in the [SMP](#). See [SMP](#) Section IV for definitions of all relevant terms used in the FGP.

A. Policy Applicability

Processes

The Title IX Office will apply the processes in the Policies in effect on the date the Title IX Office receives the Formal Complaint irrespective of the date the reported incident(s) occurred.

Definitions

The Title IX Office will use the definitions, including of prohibited conduct, in effect on the date of the alleged incident. The Title IX Office will use the definitions section(s) of the relevant policies in effect at the time of the most recent alleged incident for reported conduct spanning more than one year.

B. Scope Inquiries

Individuals with questions about the FGP and its applicability to any alleged conduct may contact the Title IX Coordinator:

Title IX Coordinator
615-343-9004
titleix@vanderbilt.edu
2100 West End Avenue, Suite 700
Nashville, TN 37203
<https://www.vanderbilt.edu/title-ix/>

Inquiries about the application of Title IX also can be directed to the U.S. Department of Education's Office for Civil Rights.

III. Definitions

See [SMP](#) Section IV for definitions of all relevant terms used in the FGP.

IV. Prohibited Conduct – Formal Grievance Protocol (FGP)

If the definitional and jurisdictional requirements outlined in [Section II](#) are met, the following conduct, including the facilitation of, assistance of, or attempts to commit the same, is prohibited under the FGP.³

1. **Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:
 - a. **Quid Pro Quo Sexual Harassment:** A Vanderbilt faculty, staff member, or postdoctoral trainee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct.

³ These definitions are based on federal definitions provided in the Title IX regulations and may differ from state law. Consequently, any criminal proceeding brought by state or local law enforcement authorities may use different definitions.

- b. **Hostile Environment Sexual Harassment:** Unwelcome sexual conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Vanderbilt's education program or activity.
- c. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship is determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
- d. **Domestic Violence:** Felony or misdemeanor crimes of violence committed between:
- individuals who are current or former spouses or intimate partners;
 - persons who share a child in common;
 - persons who currently live together or have formerly lived together as spouses or intimate partners;
 - a person similarly situated to a spouse of the victim under the domestic or family violence laws of Vanderbilt's jurisdiction; or
 - 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 Vanderbilt's jurisdiction.
- e. **Sexual Assault:** Intentional physical contact of a sexual nature directed towards another person when the other person does not provide or is incapable of giving Effective Consent (see [Section IV of the SMP](#)). This includes but is not limited to rape, sodomy, sexual battery, fondling, incest, and statutory rape.
- f. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

Types of stalking could include but are not limited to:

- Intentionally following a specific person;
- Approaching or confronting that person in a public place or on private property;
- Persistent and unwelcome attempts to contact the person by phone, electronic communication (including via the internet and cellphones), or regular mail;
- Vandalizing the person's property or leaving unwanted items for the person;
- Persistently appearing at the person's classroom, residence, or workplace without that person's permission or other lawful purpose;
- Cyber-stalking, in which a person follows, monitors, or surveils another person through the use of electronic media such as the internet, digital media networks, blogs, cell phones, texts, or other monitoring devices; and
- Using visual or audio recording devices or hidden or remote cameras without the subject's Effective Consent (see [Section IV of the SMP](#)).

V. Prohibited Conduct - Retaliation

The following conduct, including facilitating, assisting, or attempting to commit the same, is prohibited under the Policies. Vanderbilt officials not only will take steps to prevent Retaliation but also will take strong responsive action if it occurs.

Retaliation includes intimidation, harassment, threats, speech, coercion, discrimination, or other adverse action, with the purpose of interfering with any right or privilege secured by the Policies, against a person who participates in, or refuses to participate in, the Title IX processes. This includes, but is not limited to, persons who:

- a. in good faith, report or otherwise disclose what they believe is Sexual Misconduct;
- b. participate in, or refuse to participate in, any investigation or proceeding under the Policies;
- c. oppose conduct that they believe to violate the Policies (including speaking against or refusing to engage in conduct that would violate the Policies);
- d. are charged with a conduct violation that does not involve sex discrimination or Sexual Harassment, but arises out of the same facts or circumstances as an Incident Report or Formal Complaint of sex discrimination, or an Incident Report or Formal Complaint of Sexual Harassment

Persons should report Retaliation to the Title IX Coordinator promptly. In the event a person alleges that the Title IX Coordinator retaliated against them, the person may file a Formal Complaint with the Associate Vice Chancellor for Equal Access, who will follow the grievance processes under the Policies. The Title IX Coordinator (or staff under the Title IX Coordinator's supervision) will not oversee the investigation or Hearing of a Formal Complaint alleging that the Title IX Coordinator engaged in Retaliation. If the Associate Vice Chancellor for Equal Access is also the Title IX Coordinator, a person alleging the Title IX Coordinator retaliated against them may file a Formal Complaint with the Vice Chancellor for Administration.

VI. Equitable Treatment

The FGP treats Complainants and Respondents equitably throughout the resolution process. Additionally, the Title IX Office offers Supportive Measures to both Parties, as needed. See [SMP Section IX](#).

An individual's status as a Respondent will not be considered a negative factor during any process under the FGP. Respondents are presumed not to be responsible for the alleged conduct unless and until the resolution process concludes and a final determination regarding responsibility is issued. Similarly, a person's status as a Complainant, Respondent, or witness will not determine that person's credibility.

VII. Additional Communication Considerations

- Vanderbilt does not prohibit any Party from discussing their own experience but encourages Parties to respect the sensitive nature of allegations of Sexual Misconduct.

- A person’s confidential information (including medical and academic information) obtained during the course of a Title IX investigation or a proceeding under the Policies should not be re-disclosed outside the investigation or proceeding. This provision does not apply to information learned outside of an investigation or proceeding under the Policies.
- Anyone who knowingly makes a false accusation of Prohibited Conduct or Retaliation of any form, including knowingly submitting false information during the investigation or hearing process, may be subject to an investigation for a potential violation of the Policies and may be subject to disciplinary action and the appropriate sanctions, up to and potentially including termination for employees and expulsion for students. A determination regarding responsibility alone, however, is not sufficient to conclude that any Party made a materially false statement in bad faith.

VIII. Beginning the Resolution Process

A. Filing an Incident Report

Vanderbilt encourages everyone to disclose incidents of Sexual Misconduct immediately to maximize Vanderbilt’s ability to obtain information and conduct a thorough, prompt, and impartial investigation. A delayed Incident Report may result in the loss of relevant information, evidence, and reliable witness testimony and may impact Vanderbilt’s ability to fully investigate the incident.

For a full explanation of the options for filing an Incident Report, see the [SMP Section XI](#).

B. Informational Meeting with Title IX Office

Following the submission of an Incident Report, the Title IX Office will typically contact the Complainant to schedule an informational meeting. During the informational meeting, the Title IX Office will discuss the process for filing a Formal Complaint, the options for resolving a Formal Complaint, and the availability of Supportive Measures.

C. Filing a Formal Complaint

If the Complainant wishes to pursue an investigation or other resolution of an alleged incident of Sexual Misconduct, they must file a Formal Complaint. The filing of a Formal Complaint means that the individual is asking the Title IX Office to take further steps, such as initiating an investigation and resolution process, which may include Informal Resolution or a Hearing.

Formal Complaints must be in writing and should include all information that the Complainant believes to be relevant (e.g., time, location and nature of incident, names of individuals involved in or witnesses to the incident, names of other persons affected by the incident, etc.). Formal Complaints must be signed, which can be accomplished by: (1) the Complainant’s physical signature; (2) use of the Title IX Office’s electronic Formal Complaint form; or (3) submission via the Complainant’s Vanderbilt email account. Alternatively, a Complainant can file a Formal Complaint by meeting with the Title IX Office and providing a verbal description of the alleged incident. Based on the information provided, the Title IX Office will draft a Formal Complaint which the Complainant will review, verify for accuracy, and sign.

In limited circumstances, the Title IX Office may convert an Incident Report into a Formal Complaint without a request from the Complainant so that Vanderbilt may fulfill its Title IX obligations to provide a safe and nondiscriminatory environment.

The Title IX Office endeavors to conduct and complete the entire resolution process within 90 business days from the issuance of the Notice of Allegations. Good cause may exist for extending the time for the process in some cases, such as where there are multiple witnesses or complicated or extensive evidence, where the investigation is paused to pursue Informal Resolution, and as a result of Vanderbilt breaks, holidays, and closures. The Title IX Office will notify the Parties simultaneously, in writing, if the resolution process cannot be completed within 90 business days and will provide a revised timeline for completion of the process.

D. Assessment of a Formal Complaint

The Title IX Coordinator will assess the Formal Complaint to determine whether an investigation is appropriate. If an investigation is initiated, the Title IX Coordinator will determine whether the investigation proceeds under either or both of the Policies based on the nature and location of the alleged conduct.

Consolidation of Formal Complaints

The Title IX Office may, but is not required to, consolidate Formal Complaints arising out of the same factual circumstances where:

- a. there is more than one Complainant or Respondent;
- b. a Formal Complaint has also been filed by the Respondent against the Complainant. In such cases, the resolution process for a later-filed Formal Complaint may be consolidated into an earlier-filed process rather than re-start from the beginning (i.e., the new allegations may be considered in the course of a pre-existing investigation).
- c. A Formal Complaint is initiated under the [SMP](#) and arises out of the same factual circumstances as a Formal Complaint under the FGP, so long as the consolidated Formal Complaint is resolved in accordance with the requirements of the FGP.

Issuance of Notice of Allegations

If the Title IX Coordinator determines that an investigation is appropriate, the Title IX Office will notify the Parties simultaneously via a Notice of Allegations (“NOA”) that an investigation will begin. The date a NOA is issued is the official start of an investigation. The Title IX Office will provide the Parties sufficient time to prepare for any investigative meetings.

The NOA will provide the following information:

1. Notice of the applicable Policies;
2. Notice of the allegations potentially constituting Sexual Misconduct, including sufficient details known at the time. Sufficient details include:

- a. The identities of the Parties involved in the incident;
 - b. The conduct allegedly constituting Sexual Misconduct; and
 - c. The date and location of the alleged incident.
3. The NOA will include the following statements:
- a. The Respondent is presumed not responsible for the alleged conduct;
 - b. A determination regarding responsibility is made at the conclusion of the resolution process, which will be either the formal investigative process or the Informal Resolution Process;
 - c. The Parties may have one Adviser of their choice participating in the Title IX process at a time, who may be, but is not required to be, an attorney;
 - d. The Parties may inspect and review evidence; and
 - e. The Parties are prohibited from knowingly making false statements or knowingly submitting false information during the resolution process.

If at any point during the investigation the Title IX Office decides to investigate allegations that are not included in the original NOA, it will provide a revised NOA to the Parties.

E. Issuance of Notice of Dismissal

Under certain circumstances, after a Formal Complaint is received, the Title IX Coordinator may be required or may elect to dismiss a Formal Complaint, as described below. The Title IX Coordinator will promptly and simultaneously send a Notice of Dismissal (“NOD”) to the Parties when allegations are dismissed under the FGP. The Title IX Coordinator also will review the Formal Complaint to determine whether the allegations could constitute a violation of the [SMP](#) (in which case the Title IX Office will transfer the Formal Complaint for further proceedings under that process) or may transfer the Formal Complaint to another Vanderbilt office for review, if appropriate.

Mandatory Dismissal

If the conduct alleged does not meet the requirements of the FGP, the Title IX Coordinator must dismiss the Formal Complaint. Reasons for dismissal include:

1. if Vanderbilt lacks jurisdiction as described in [Section II](#); or
2. if the allegations would not constitute a violation of the FGP under any alleged circumstances.

Permissive Dismissal

At any time during the investigation or Hearing, the Title IX Coordinator may dismiss a Formal Complaint or any of its allegations if:

1. A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint in whole or in part;
2. A Party is no longer enrolled or employed by Vanderbilt; or
3. Specific circumstances prevent the Title IX Office from gathering evidence sufficient to reach a determination as to the Formal Complaint in whole or in part.

Under the first circumstance, the Title IX Coordinator may choose in their discretion to sign the Formal Complaint to continue to the resolution process rather than dismiss the Formal Complaint.

Under the second circumstance:

1. The Respondent's student or employment records may be marked to indicate their departure during an administrative process (which may resume if they return to Vanderbilt) but will not indicate that the Respondent was found or assumed responsible for any alleged Sexual Misconduct pending at the time of departure.
2. The Respondent may be required to notify the Title IX Coordinator if they intend to visit any building owned or controlled by Vanderbilt or a Vanderbilt registered student organization, or if they otherwise seek to attend any Vanderbilt education program or activity or event, so that the Complainant may be given an opportunity to receive Supportive Measures if needed.

If permissive dismissal is granted and the Title IX Coordinator does not sign the Formal Complaint, the process will cease, no further investigation will occur, and no disciplinary action or sanction can be imposed against the Respondent.

Supportive Measures Following a Notice of Dismissal

Supportive Measures remain available following permissive dismissal of a Formal Complaint.

In cases of mandatory dismissal, the Title IX Coordinator, in consultation with the Dean of Students or designee, has the authority to provide Supportive Measures and make accommodations consistent with [Section VI](#), and to take other measures consistent with the Student Handbook; for faculty matters, the Provost or designee, in consultation with the Title IX Coordinator, will have authority to take action consistent with the Faculty Manual; and for staff matters, the Associate Vice Chancellor for Human Resources or designee, in consultation with the Title IX Coordinator, will have authority to take action consistent with appropriate Human Resources policies.

Appeal of a Notice of Dismissal

Both Parties may appeal the NOD. An appeal of a NOD must be submitted in writing to the Associate Vice Chancellor for Equal Access no later than 5:00 p.m. Central Time on the 10th day following issuance of the NOD. See Appendix A in the [SMP](#) for length and formatting requirements.

F. Withdrawal of a Formal Complaint

A Complainant may withdraw a Formal Complaint at any point in the process before a final determination. If a Complainant withdraws a Formal Complaint, the Title IX Office will assess all relevant information to determine whether and how to proceed.

G. Removal from Campus

Student Respondents

The Title IX Office may remove a Respondent from an education program or activity on an emergency basis, provided the Title IX Coordinator undertakes an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal. The Respondent must receive notice and an opportunity to challenge the decision immediately following the removal. See the Emergency Removal Process.

Non-student Respondents

The Title IX Office may place a non-student Respondent with a Vanderbilt employment relationship on administrative leave during the pendency of a proceeding under the Policies. Faculty Respondents may also be placed on Summary Suspension in accordance with the provisions of the Faculty Manual (Part 4, Chapter 1). Persons, including those who are not members of the Vanderbilt Community, may be excluded from campus.

VIII. Resolution Process – Investigation

For investigations in which the conduct alleged meets the scope requirements of the FGP, the Formal Grievance Process will govern the resolution process. See [Section II](#). The NOA will identify which Policy or Policies govern the investigation.

The Title IX Office will make reasonable efforts to balance and protect the rights of the Parties during any investigation commenced under the Policies. During the investigative process, a Respondent is presumed not responsible until a determination of responsibility is made at the conclusion of the Hearing (and any appeal, as applicable). The Title IX Office will respect the privacy of the Parties and any witnesses in a manner consistent with Vanderbilt's obligations to investigate the alleged incident and take appropriate interim or corrective action. All investigations will be prompt, fair, and impartial. The Title IX Coordinator will appoint an Investigator to handle the investigation. This Investigator will be a different person than the Title IX Coordinator. The Title IX Office will keep the Parties reasonably informed of the status of the investigation.

Both Parties may use an Adviser throughout the investigation. If a Party wishes to have an Adviser but has not selected one, the Title IX Office will send a list of trained Advisers from which the Party may choose. Advisers may not participate directly in interviews; they may be present solely to advise or support the Party and are prohibited from speaking directly to the Investigator. Advisers who exceed the scope of their role or otherwise do not comport with reasonable rules of decorum for meetings and proceedings will be cautioned and may be removed from the process at Vanderbilt's sole discretion.

Parties may change Advisers during the resolution process but are limited to one Adviser at any time. Advisers are selected by the Parties (unless a Party lacks an Adviser at the time of a Hearing) to assist them during the resolution process. The Parties are ultimately responsible for their own engagement in

the resolution process, and a Party's belief that an Adviser acted or failed to act, or otherwise underperformed, is not a ground for Appeal of a determination.

Staff, faculty, and employed postdoctoral fellows are generally required to participate in investigations, including investigations of Sexual Misconduct, and refusal to participate in such an investigation may result in disciplinary action and related sanctions, which is not considered Retaliation under the Policies.

During the investigation phase, the Investigator will strive to collect all relevant evidence but cannot compel external sources to provide evidence they may have. Investigation steps may include interviewing the Complainant, the Respondent, and any witnesses; and gathering evidence, including, but not limited to:

- Formal Complaint and Incident Report;
- law enforcement investigation documents;
- medical records with the appropriate releases;
- relevant student or employment files;
- academic records;
- text messages;
- emails;
- screenshots;
- pictures;
- video surveillance;
- verbal or written statements;
- swipe records;
- receipts;
- internet or social media posts;
- audio and video recordings; or
- other relevant documents or evidence.

The Parties will have an equal opportunity to present names of potential witnesses to the Investigator. The Parties may identify potential factual witnesses but may not present character witnesses. The Investigator will consider the witness lists provided by the Complainant and Respondent when identifying witnesses for interview, but decisions about whom to interview are solely within the Investigator's discretion. The Investigator retains discretion to limit the number of witness interviews conducted if the Investigator finds that the witnesses' statements would be unreasonably duplicative, if the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or if the witnesses are offered to render testimony that is categorically inadmissible, such as testimony concerning sexual history of the Complainant (subject to the limited exceptions described [below](#)). The Investigator may also choose to interview witnesses not identified by the Parties.

For all investigative interviews or other meetings to which the Title IX Office invites a Party or witness, the Title IX Office will provide sufficient time for the individual to prepare to participate. The Investigator will record all interviews conducted as part of an investigation, which will serve as the basis

for preparing a transcript. The Title IX Office will provide all Parties and witnesses a transcript of their own interview. The Parties and witnesses will have three days⁴ to review and offer corrections to their transcript. Parties and witnesses are not required to submit corrections. The Title IX Office will append any corrections received to the original transcript. See [Appendix A of the SMP](#) for length and formatting requirements.

The Investigator will prepare a Preliminary Investigative Report (“PIR”) which includes all directly related evidence, including all interview transcripts.

The Title IX Office will send the PIR to the Parties and their respective Advisers, if any, simultaneously. The Title IX Office retains discretion to send the PIR in an electronic or hard copy format. The Title IX Office may redact non-Party names and sensitive information from the evidence. The Title IX Office may also use data security safeguards when issuing documents and evidence. The Parties and their Advisers may review the evidence solely for the purposes of this process and may not photograph or disseminate the evidence.

The Parties will have 10 days to review the PIR and submit a response. Responses to the PIR are an opportunity for the Parties to clarify the meaning of the evidence presented and to reply to the other Party’s or witness’ statements. If a Party desires to submit new evidence, they may do so separately from their PIR response to the Investigator. Requests for extensions to review and submit a response to the PIR must be submitted via email to the Investigator by no later than 5:00 p.m. Central Time on the 10th day of the PIR review and response period. See [Appendix A of the SMP](#) for length and formatting requirements.

The Investigator will review any responses to the PIR to determine whether additional investigation is needed. The Investigator will keep the Parties apprised of the investigation’s status. The Investigator will attach any responses to the PIR (that meet the requirements outlined above and in [Appendix A of the SMP](#)) and any new evidence gathered to the Final Investigative Report (“FIR”).

The Investigator will prepare a FIR that includes all directly related evidence. The FIR will not contain any recommendation or determination as to whether a violation of the Policies has occurred or potential sanctions are appropriate.

The Title IX Office will simultaneously send the FIR to the Parties and their respective Advisers, if any. The Title IX Office retains discretion to elect to send the FIR in an electronic or hard copy format. The Title IX Office may redact non-Party names and sensitive information from the evidence. The Title IX Office may also use data security safeguards when issuing documents and evidence. The Parties and their Advisers may review the evidence solely for the purposes of this process and may not photograph or disseminate the evidence.

The Parties will have five days to review the FIR and submit a response. Responses to the FIR are an opportunity for the Parties to clarify the meaning of any new evidence presented in the FIR and to reply

⁴ For purposes of the FGP, “days” means calendar days unless otherwise noted.

to the other Party's or witness' statements before a Hearing. Following receipt of the responses to the FIR, the Investigator may conduct additional investigation as necessary, in which case the Hearing date may be postponed (See [Section IX](#)). Requests for extensions to review and submit a response to the FIR must be submitted via email to the Investigator by no later than 5:00 p.m. Central Time on the fifth day of the FIR review and response period. See [Appendix A of the SMP](#) for length and formatting requirements.

Parties and witnesses may choose to end their involvement in the resolution process at any time. If applicable, Parties may request switching to an Informal Resolution Process.

IX. Resolution Process – Hearings

[Section A](#) discusses the pre-hearing conference and other steps that must be completed prior to the Hearing taking place.

[Section B](#) discusses the Hearing format, how relevancy and credibility determinations are made, and the Advisers' role in a Hearing.

[Section C](#) discusses the range of sanctions and remedies that may be implemented.

[Section D](#) discusses the appeal options for the Parties.

[Section E](#) discusses when a determination of responsibility is final and no longer appealable.

A. Pre-Hearing Conference

All Hearings will be prompt, fair, and impartial. The Hearing Manager will serve as the administrator for all Hearings and appeals processes.

At least 10 days prior to a Hearing, the Parties will participate in a pre-hearing conference with their Advisers, the Hearing Manager, and the Decision Maker. The Decision Maker will conduct the pre-hearing conference in person or remotely, at the discretion of the Hearing Manager. For in-person pre-hearing conferences, either Party may request, or the Hearing Manager may require, the Parties to be located in separate rooms. Technology must enable the Decision Maker and Parties to simultaneously see and hear all attendees. If the Decision Maker is a Hearing Panel, all members of the Hearing Panel may be present at the pre-hearing conference.

During the pre-hearing conference, the Decision Maker will discuss the following:

- Preparation for the Hearing;
- Review of responses to the FIR;
- Confirmation of the Advisers for each Party;
- Confirmation of access to the FIR and evidence;
- Requested witnesses; and
- Hearing processes and rules of decorum.

Identification of the Decision Maker

At least five days before the pre-hearing conference, the Hearing Manager will identify the Decision Maker to the Parties. The Decision Maker will not be the same person as the Title IX Coordinator, the Hearing Manager, or the Investigator.

The Hearing Manager will assure that the Decision Maker does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and that the Decision Maker has received the appropriate and necessary training.

If the Respondent is a faculty member, the Decision Maker will be a Hearing Panel. The Hearing Panel will consist of an independent, third-party Hearing Officer, who will chair the Panel, rule on relevancy determinations, and direct the Hearing. Two faculty Hearing Panel members (selected by the Title IX Coordinator from among a pool of faculty members nominated by the Dean of each school), will attend the Hearing and participate in deliberations. The three Hearing Panel members will each have an equal vote.

For all other Respondents, the Decision Maker will be a single, independent, third-party Hearing Officer, who will direct the Hearing process.

At least two days before the pre-hearing conference, either Party may challenge the named Decision Maker if the Party believes the Decision Maker has a conflict of interest or bias for or against Complainants or Respondents generally or against a Party individually. The notice of a conflict of interest or bias must be provided in writing to the Hearing Manager and articulate the rationale for the challenge. The Hearing Manager has the discretion to keep or replace the challenged Decision Maker. (The Hearing Manager may consult with the appropriate Dean in cases where a Party challenges a faculty Hearing Panel member.) If the Decision Maker is replaced, the Hearing Manager will postpone the pre-hearing conference and Hearing to allow time for engaging a replacement.

Identification of the Advisers

Each Party is required to have an Adviser for the Hearing. If a Party is without an Adviser, they must notify the Hearing Manager at least two days before the pre-hearing conference. The Title IX Office will provide, without fee or charge to that Party, an Adviser to conduct cross-examination on behalf of that Party. The Hearing may be postponed to allow time for engaging an Adviser. The Title IX Office will send a list of trained Advisers from which the Party may select an Adviser.

Identification of the Witnesses

Parties also must identify any witnesses they want to be present at the hearing, in writing, to the Hearing Manager by 5:00 p.m. on the day before the pre-hearing conference. The Decision Maker may also request additional witnesses be present at the Hearing. The Hearing Manager will provide the Parties with a list of the additional witnesses and will make all reasonable efforts to contact the identified witnesses and to have the witnesses present at the Hearing. The Title IX Office generally has no ability

to compel student or unaffiliated witnesses to attend a Hearing. The Hearing Manager will provide a list of all confirmed witnesses to the Parties in advance of the Hearing.

Issuance of Notices of Attendance

At least five days before the Hearing and after the pre-hearing conference, the Hearing Manager will transmit notices of attendance to any witness identified by a Party or the Decision Maker as a witness for the Hearing. The notice will advise the person of the date and time of the Hearing and instruct the person to contact the Hearing Manager immediately if there is a material and unavoidable conflict.

A person who receives an attendance notice should notify any manager, faculty member, coach, or other supervisor, as necessary and as soon as practicable, if attendance at the Hearing will conflict with job duties, classes, or other obligations. Managers, faculty members, coaches, and other supervisors should excuse the subject of the obligation, or provide another accommodation, so that the person may attend the Hearing as specified in the notice. Managers, faculty members, coaches, and other supervisors may contact the Hearing Manager with any questions regarding a hearing notice of attendance.

B. Hearing

Hearing Format

Hearings will be conducted live, either in person or remotely at the discretion of the Hearing Manager. The Hearing Manager may require, and a Party may request, in-person Hearings be conducted with the Parties located in separate rooms. Technology must enable the Decision Maker and Parties to simultaneously see and hear the Party or witness answering questions. At the discretion of the Hearing Manager, Hearings may be conducted with all Parties physically present in the same location, or with any or all Parties, witnesses, and other participants appearing virtually. Vanderbilt will create a transcript or recording of the Hearing, which will be available to the Parties for inspection and review by request.

At the Hearing, the Decision Maker will call each Party or witness present for cross examination. No opening or closing statements will be allowed.

Typically, the Decision Maker will ask questions of each Party or witness first, followed by the Advisers. The Decision Maker has discretion to allow follow-up questions by each Adviser. Each Adviser is permitted to ask the other Party and any witnesses relevant questions, including those challenging credibility.

Relevance Determinations

At the Hearing, the Decision Maker will evaluate whether evidence presented is relevant. Relevant evidence is any evidence that may tend to make the allegations at issue more or less likely to be true. This includes corroborating evidence and contradicting evidence.

Whether a question is relevant is determined solely by the Decision Maker. Advisers may ask only relevant cross-examination and follow-up questions of a Party or witness. Before a Party or witness answers a cross-examination or follow-up question, the Decision Maker must determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant's sexual predisposition (or tendencies) or prior sexual behavior are not relevant, unless:

1. offered to prove that someone other than the Respondent committed the conduct alleged; or
2. if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Effective Consent.

Credibility Determinations

Credibility determinations will not be based on an individual's status as a Complainant, Respondent, or witness. The Decision Maker will consider all relevant evidence presented in the FIR and at a Hearing by the Parties. The Decision Maker has the discretion to grant lesser weight to information or evidence introduced at the Hearing that was not previously presented for investigation.

Parties and witnesses, solely in the Decision Maker's discretion, may be given a chance to clarify or otherwise explain responses that they provided during the investigation that differ from those offered during a Hearing. The Decision Maker has sole discretion to determine the effect of any purported discrepancies on a Party's or witness' credibility.

Advisers' Role in Hearings

Each Party must be accompanied to the Hearing by their Adviser. Advisers are present solely to advise or support the Party and are prohibited from speaking directly to the Decision Maker, other Parties, or witnesses during the Hearing, except for conducting cross examination. Cross examination at a Hearing must be conducted directly, orally, and in real time by each Party's Adviser, and never by a Party personally. Advisers who exceed the scope of their role or otherwise do not comport with reasonable rules of decorum for meetings and proceedings will be cautioned and may be removed from the process at Vanderbilt's sole discretion.

Party or Witness Absence from a Hearing

The Decision Maker will consider neutral records without requiring the author or custodian of those records to be present during the Hearing or to submit to cross examination, unless the Decision Maker has a specific concern regarding the authenticity of the evidence. This neutral record evidence includes but is not limited to:

- medical records with the appropriate releases;
- privileged legal records with the appropriate releases;
- Sexual Assault Nurse Examiner records provided with the appropriate releases;
- police reports;
- video; or
- other security recordings.

The Decision Maker may also consider text messages, emails, group chat messages, other social media posts, or other electronic evidence without requiring the Party or witness who provided the evidence to

be present during the Hearing or to submit to cross examination unless the Decision Maker has a specific concern regarding the authenticity of the evidence.

In most cases, a Party or witness should be present at the Hearing to answer questions posed by the Decision Maker and Advisers. Instances where a Decision Maker may consider these statements even in the absence of the Party or witness include, but are not limited to, cases where:

- the Party or witness is deceased, is without access to a means to participate, is on military deployment, or is incapable of participating in the Hearing;
- the Parties stipulate that a witness does not need to be cross-examined and that the witness' statement may be considered; or
- a Party or witness gives a statement that is an admission of responsibility or otherwise against that Party's or witness' interest.

If a Party or witness does not appear at the Hearing or make themselves available for cross examination, the Decision Maker may still consider that Party's or witness's previous statements but may, in the Decision Maker's discretion, give lesser weight to that Party or witness's statements when reaching a determination of responsibility.

The Decision Maker will not 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 cross examination or other questions.

Determination Regarding Responsibility

The Decision Maker will issue a written determination, typically within 20 days following the Hearing. Based on a Preponderance of the Evidence, the Decision Maker will decide whether the Respondent is responsible for engaging in the alleged conduct, whether the conduct is a violation of the Policies, and if so, what disciplinary action and sanctions may be appropriate. For cases where a faculty member is a Respondent, the Hearing Panel will deliberate and, at the conclusion of those deliberations, the Hearing Panel will issue a written determination, drafted by the Hearing Officer, in collaboration with the other members of the Hearing Panel. For all other cases, the Hearing Officer will deliberate and issue a written determination. These determinations will typically be issued within 20 days following the hearing. The written determination will include:

- Identification of the allegations potentially constituting Sexual Misconduct under the Policies;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather evidence, and Hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policies to the facts;
- A statement of, and rationale for, the result as to each allegation, including:
 - A determination regarding responsibility;
 - Any disciplinary action and sanctions imposed on the Respondent; and

- Whether remedies designed to restore or preserve equal access to Vanderbilt’s education program or activity will be provided to the Complainant; and
- Processes and permissible bases for the Parties to appeal the determination.

The Hearing Manager will provide the written determination to the Parties simultaneously. If the Respondent is found responsible for a violation of the Policies, they will be subject to disciplinary action and the appropriate sanctions.

Remedies and Supportive Measures that do not affect the Respondent should not be disclosed in the written determination; rather, the determination should simply indicate that remedies will be provided to the Complainant. The Title IX Coordinator is responsible for the effective implementation of any remedies and Supportive Measures.

C. Range of Sanctions and Remedies

Student Respondent Sanctions

When determining sanctions for student Respondents, the Decision Maker will consult with the Assistant Dean of Students for Community Standards and Support or their designee. The Decision Maker will issue one of the following sanctions, as appropriate to the violation:

- Deferred Disciplinary Probation
- Disciplinary Probation
- Suspension
- Expulsion

A Decision Maker may assign other sanctions in addition to the above, such as an educational conference or removal of access to certain facilities or activities.

A Respondent found to have violated the Policies will have their student record marked in accordance with the [Student Handbook](#). A Respondent’s student record also may indicate their departure during an administrative process (which may resume if they return to Vanderbilt) but will not indicate that such Respondent was found or assumed responsible for any alleged Sexual Misconduct pending at the time of departure.

Staff Respondent Sanctions

When determining sanctions for staff Respondents, the Decision Maker will consult with the Respondent’s Manager or Department Head and with Human Resources. Sanctions can include, but are not limited to the following:

- Termination of employment;
- Reduction in salary and/or rank;
- Suspension;
- Probation;
- Mutual No Contact Directives;
- Campus restrictions;

- Revocation of Vanderbilt privileges;
- Required participation in educational programs;
- Removal from (or reassignment to a different role on) a project; and
- Written reprimand.

Faculty Respondents

For faculty Respondents, the Respondent's Dean will determine the sanction after consultation with the Hearing Panel, and the sanction will be included in the written determination. Any sanction for a faculty Respondent will be generally consistent with other disciplinary decisions taken for similarly-situated faculty Respondents.

Sanctions can include, but are not limited to, the following:

- Termination of employment;
- Reduction in salary and/or rank;
- Suspension;
- Probation;
- Mutual No Contact Directives;
- Campus restrictions;
- Revocation of Vanderbilt privileges;
- Required participation in educational programs;
- Removal from (or reassignment to a different role on) a project;
- A requirement to correct or retract publications affected by the findings of the investigation; or
- Written reprimand.

The Hearing Manager will send the appropriate Dean the written determination and will provide a copy of the written determination to the Provost, for Vanderbilt University-employed faculty, or to the Chancellor, for Vanderbilt University Medical Center-employed faculty. Vanderbilt will report the outcome of the investigation to external agencies, as required.

Remedies

The Decision Maker may recommend implementation of remedies for the Parties to restore or preserve equal access to Vanderbilt's education programs or activities. The Title IX Coordinator will approve and implement remedies, as appropriate. Remedies can include, but are not limited to, the following:

- Access to on-campus counseling services and assistance in setting up an initial appointment with those services;
- Mutual No-Contact Directives;

- Rescheduling of academic exams and assignments;
- Alternative course or program completion options;
- Changing class schedules, including the ability to transfer course sections or withdraw from a course;
- Changing work schedules, job assignments, job locations, or reporting lines for Vanderbilt employment;
- Changing on-campus residence hall or classroom assignments;
- Escorts for transit between Vanderbilt classes and activities;
- Academic support services, such as tutoring;
- Leaves of absence; or
- Referral for consideration of a Party's status through the appropriate process (including for faculty, the Grievance process under Part IV, Chapter 2 of the Faculty Manual).

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

D. Appeals

Either Complainant or Respondent may appeal a written determination. A Party must submit an appeal by email to the Hearing Manager by no later than 5:00 p.m. Central Time on the 10th day after the Parties are sent the written determination. See [Appendix A in the SMP](#) for length and formatting requirements. The Title IX Coordinator retains discretion to verify, or waive minor procedural variations in, the timing and content of the appeal submission.

Appeals can only be raised on one or more of the following grounds:

1. A procedural irregularity that affected the outcome of the matter. Procedural or technical irregularities will not be sufficient to sustain an appeal unless found to have affected the determination.
2. New evidence that was not reasonably available before or during the time of the Hearing and that could affect the outcome of the matter. An appeal on this basis must specify the new evidence that was not reasonably available at the time of the determination, why the evidence was unknown or unavailable before or during the time of the Hearing, and how the new evidence could affect the determination.
3. The Title IX Coordinator, Investigator, or hearing Decision Maker had a conflict of interest or bias for or against Complainants or Respondents generally or against the appealing Party individually that affected the outcome of the matter. The appeal must specify the basis on which the Party believes there is a conflict of interest or bias that affected the outcome of the matter.
4. The determination cannot reasonably be supported by the evidence.
5. The severity of the sanction.

The following are not grounds for appeal by any Party:

- a. Issuance and implementation of remedies and Supportive Measures other than Emergency Removal as described [above](#); and
- b. Informal Resolutions.

The appeal must include:

- the ground(s) for the appeal with sufficient detail to support the ground(s);
- the name of the appealing Party; and
- evidence that the appeal could affect the outcome of the matter.

Upon receipt of an appeal, the Hearing Manager will:

- a. Notify the other Party in writing that an appeal has been filed and implement appeal processes equally for both Parties;
- b. Refer the appeal to an appeal Decision Maker (Appeals Panel for faculty Respondents; Appellate Officer for all other Respondents);
- c. Assure that the appeal Decision Maker is not the same person as the Investigator(s), Title IX Coordinator, or hearing Decision Maker; and
- d. Assure that the appeal Decision Maker (Appeals Panel for faculty Respondents; Appellate Officer for all other Respondents) does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and that the appeal Decision Maker has received the appropriate and necessary training.

Upon receipt of an appeal, the Hearing Manager will notify the Parties of the appointment of the appeal Decision Maker. Within two days of the notice of appeal being sent, the Parties may challenge the named appeal Decision Maker if the Party believes the appeal Decision Maker has a conflict of interest or bias for or against Complainants or Respondents generally or against a Party individually. The notice of a conflict of interest or bias must be provided in writing to the Hearing Manager and articulate the rationale for the challenge. The Hearing Manager has the discretion to keep or replace the challenged appeal Decision Maker (The Hearing Manager may consult with the appropriate Dean in cases where a Party challenges a faculty Appeals Panel member). If the appeal Decision Maker is replaced, the Hearing Manager will give notice and extend the appeal process timeline to allow time for engaging a replacement.

The Hearing Manager will provide a copy of the appeal to the non-appealing Party. The non-appealing Party may submit a written statement within 10 days that may seek to affirm the initial determination or respond to the appeal statement. Any such response must be submitted by email attachment to the Hearing Manager by no later than 5 p.m. on the 10th day after the date the non-appealing Party is sent the appeal. See [Appendix A of the SMP](#) for length and formatting requirements.

The Title IX Coordinator is permitted, but not required, to file a response addressing concerns relating to procedural irregularities or bias in the Investigation or Hearing process raised in any appeal submitted by a Party.

The Title IX Coordinator has discretion to continue or institute any applicable Supportive Measures before the appeal deadline and before the resolution of any appeal.

It is not the role of an Appellate Officer or Appeals Panel to substitute their judgment for the judgment of the hearing Decision Maker if there is a reasonable basis for the hearing Decision Maker's determination based on a Preponderance of the Evidence. Neither an Appellate Officer nor an Appeals Panel may alter, or recommend altering, the determination unless, in the Appellate Officer's or Appeal Panel's assessment, the determination is clearly erroneous based on one or more of the permitted grounds.

The Hearing Manager will refer the appeal to an Appeals Panel in the case of a faculty Respondent or an Appellate Officer for all other Respondents. For cases where the Respondent is a faculty member, the Appeals Panel will consist of an independent, third-party Appellate Officer and two additional faculty Appeals Panel members, each of whom will have an equal vote. The Title IX Coordinator will select the faculty Appeals Panel members from a standing pool of faculty members nominated by the Deans of the schools. For all other cases, the Appellate Officer will be an independent third-party.

The Appellate Officer or Appeals Panel, as appropriate, will issue a written decision that includes the result of the appeal and the rationale for the result. The written decision will issue in a reasonably prompt time frame, typically within 15 days following receipt of all appeals materials. The appeal is typically determined based on the existing record, but the Appellate Officer or Appellate Panel has the discretion to convene a limited or full appellate Hearing, if needed. The Hearing Manager will provide the appeal decision simultaneously to both Parties.

Appellate Officers will review the record and will take action consistent with the options set forth below.

For appeals referred to an Appeals Panel, the Appeals Panel will review the record and recommend to the Chancellor action(s) consistent with the options set forth below. The Appeals Panel will provide notice of its recommendation to the Provost. The Chancellor will have the discretion either to concur with the recommendation or to elect not to concur and to specify the reasons for nonconcurrency.

Potential outcomes of an appeal are as follows (based on the relevant ground for appeal):

- In cases where there has been a procedural error sufficient to affect the determination, either the Appellate Officer or the Chancellor, as appropriate, will remand the case to the hearing Decision Maker with instructions to address the procedural error, as appropriate. The Hearing Manager will provide the results of the remand to the Appellate Officer or Appeals Panel for review to assure the procedural error has been remedied. The Appeals Panel will provide its recommendation to the Chancellor, who will have the discretion either to concur with the recommendation or to elect not to concur and to specify the reasons for nonconcurrency. The decision of the Appellate Officer or Chancellor following the remand cannot be appealed.
- In cases where the Appellate Officer or the Chancellor deems there is new evidence that was not reasonably available to the appealing Party at the time of the hearing or dismissal that could affect the outcome of the matter, the Appellate Officer or the Chancellor will remand

the case to the hearing Decision Maker with instructions to conduct a limited Hearing on remand to consider the new evidence, as appropriate. Each Party has the option, once, to appeal the determination of the Hearing on remand. Grounds for appeal are limited to those listed above.

- In cases where the Appellate Officer or the Chancellor deems the Title IX Coordinator or Investigator had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer or the Chancellor will send the case to the hearing Decision Maker to assure Vanderbilt provides a resolution process without conflict of interest or bias.
- In cases where the Appellate Officer or the Chancellor deems the hearing Decision Maker had a conflict of interest or bias for or against the Complainant or the Respondent generally or the individual Complainant or Respondent that affected the outcome of the matter, the Appellate Officer or Chancellor will send the case to the Associate Vice Chancellor for Equal Access to assure Vanderbilt provides a resolution process without conflict of interest or bias.
- In cases where the Appellate Officer or the Chancellor deems the determination cannot reasonably be supported by the evidence, either the Appellate Officer or the Chancellor will reverse the determination. This reversal may not be appealed.
- In cases where the Appellate Officer or the Chancellor deems the hearing Decision Maker erred in the severity of the sanction issued, the Appellate Officer or the Chancellor will issue a revised sanction. The Appellate Officer or the Chancellor may consult with appropriate Vanderbilt officials who will not have been involved in the Hearing process. This revised sanction may not be appealed.
- If the Appeal Officer or the Chancellor decides there is insufficient evidence to support the appeal, the Appeal Officer or the Chancellor will uphold the original determination.

E. Finality

A determination regarding responsibility (including any sanctions) becomes final either:

- if an appeal is filed, on the date that the appellate process is completed; or
- if an appeal is not filed, on the date on which an appeal would no longer be considered timely.

X. Alternative/Informal Resolution

The Informal Resolution Process (“IRP”) is a remedies-based, non-judicial process designed to eliminate or address Sexual Misconduct following the filing of a Formal Complaint and before a final determination. The IRP provides a range of possible outcomes to allow for a mutually agreeable resolution. The process aims to assure fairness, to facilitate communication, and to maintain an equitable balance of power between the Parties. See [Section XVI of the SMP](#) for a full description of the IRP.