

**Department for Aging and Rehabilitation Services
Wilson Workforce and Rehabilitation Center
Division of Rehabilitative Services
Title IX Policy and Procedure Manual**

DATE: March 21, 2025

PURPOSE

The Title IX Policy and Procedure Manual (the “Manual”) outlines the Department for Aging and Rehabilitation Services’ (DARS) policies and procedures, which help to provide a safe and secure environment by ensuring that staff and clients know how to address and promptly and equitably resolve complaints of discrimination, harassment, sexual harassment, sexual misconduct, and retaliation by students and employees. The Manual describes the Title IX policy for the Wilson Workforce and Rehabilitation Center (WWRC) and DARS’ vocational rehabilitation programs.

It is the policy of the Wilson Workforce and Rehabilitation Center (WWRC) and the Division of Rehabilitative Services (DRS) within the Department for Aging and Rehabilitative Services (DARS) (hereinafter the two will be referenced as “DARS”) to comply with Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex (including sexual harassment and sexual violence) in all of DARS’ programs and activities funded by federal education dollars. DARS will process all formal Title IX complaints in accordance with this policy and prohibits retaliation for asserting or otherwise participating in claims of discrimination on the basis of sex.

This policy applies to complaints of sexual harassment, including sexual assault and sexual violence, carried out by employees, clients and third parties. DARS will respond to reports or formal complaints of conduct prohibited under this policy. The goal of this policy is to stop discriminatory effects with measures designed to stop the prohibited conduct, prevent its recurrence, and remediate any adverse effects of such conduct at DARS sponsored programs or activities.

DARS will not deprive any individual of rights guaranteed under federal and state law, federal and state anti-discrimination provisions, or federal and state law prohibiting discrimination on the basis of sex when responding to any claim of Title IX sexual harassment.

The Title IX Coordinator, investigators, advisors, hearing officers/decision-makers and appeal officers will be trained on the definition of sexual harassment, how to conduct an investigation, and the grievance process, including hearings, appeals and the informal resolution process. They will also be trained on how to act and respond impartially, including how to avoid prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train Title IX Coordinators, investigators, hearing officers/decision-makers, and any person who

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facilitates an informal resolution process must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

TITLE IX COORDINATORS

The Title IX Coordinators contact information can be obtained by using the website links or phone numbers for WWRC and DARS listed below:

WWRC

[WWRC Title IX Coordinators webpage link placeholder.]

WWRC Phone Numbers

Phone: 540-332-7000 or 800-345-9972

TTY: 800-811-7893

DARS

[DARS Title IX Coordinator webpage link placeholder.]

DARS Phone Numbers

Voice: 804.662.7000

Toll Free Numbers: 800.552.5019

Videophone: 804.325.1316

The Title IX Coordinator is responsible for coordinating DARS' compliance with Title IX responsibilities and overseeing the response to reports of alleged Title IX violations. The Title IX Coordinator must:

- Publish a written notice of non-discrimination, including grievance procedures, that provides for the prompt and equitable resolution of Title IX sexual harassment complaints filed by clients against DARS employees, other clients, or third parties.
- Conduct educational and preventative programming to increase awareness of, and proactively prevent, issues of sexual harassment and sexual violence at DARS.
- Oversee all Title IX complaints and identify/address any patterns or systemic problems that arise during the review of such complaints.
- Be available to meet with clients.
- Be available to assist law enforcement regarding the appropriate response to reports of sexual violence.

DEFINITIONS

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to the DARS Title IX Coordinator or any DARS official who has authority to institute corrective measures on behalf of DARS.

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Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. The complainant could also be a third party who reports sexual harassment.

Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting an investigation into the allegation of sexual harassment.

At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity at DARS with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed for the Title IX Coordinator. As used in this paragraph, the phrase “document filed by a complainant” means a document or electronic submission (such as by electronic mail) that contains the complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the formal complaint.

If a Complainant does not wish to file a formal complaint, they may make such request to the Title IX Coordinator, who will evaluate that request in light of DARS’ obligation to provide a safe and nondiscriminatory learning and work environment to comply with state and federal law and regulations. The Title IX Coordinator has the ultimate discretion over whether DARS proceeds with an investigation when a complainant does not choose to file a formal complaint. The Title IX Coordinator may sign a formal complaint to initiate the investigation and grievance process. The Title IX Coordinator’s decision will be based upon a determination of whether there is a risk to health and/or safety that requires DARS to pursue formal action to protect the DARS community.

As considered in this policy, “attempting to participate” includes a complainant who has graduated from one program but intends to apply to a different program. Similarly, a complainant still enrolled as a client while on a leave of absence or who may intend to re-apply after a leave of absence is “attempting to participate” even while on a leave of absence. Further, a complainant who has left a DARS’ education program or activity because of sexual harassment but expresses a desire to re-enroll if DARS responds appropriately to the sexual harassment is “attempting to participate” in a DARS’ education program or activity.

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

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of DARS conditioning the provision of aid, benefit, or service of DARS on an individual’s participation in unwelcome sexual conduct;

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- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a DARS education program or activity;
- Sexual assault, dating violence, domestic violence, or stalking based on sex causing fear for safety or causing substantial emotional distress.
 - Sexual assault is defined as offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. 20 U.S.C. 1092(f)(6)(A)(v).
 - Dating violence is defined as 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 shall be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 34 U.S.C. 12291(a)(10).
 - Domestic violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from the person's acts under the domestic or family violence laws of the jurisdiction. 34 U.S.C. 12291(a)(8).
 - Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress. 34 U.S.C. 12291(a)(30).

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to a DARS' education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or DARS' educational environment, or deter sexual harassment.

POLICY SPECIFICS AND PROCEDURES

DARS is committed to providing prompt and impartial investigation and adjudication of all formal complaints alleging Title IX violations. During the grievance process, the complainant and respondent have equal rights to participate. DARS provides for a consistent, transparent grievance process for resolving formal Title IX complaints that:

- Treats complainants equitably by providing remedies any time a respondent is found responsible and treats respondents equitably by not imposing disciplinary sanctions without following the grievance process.

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- Ensures that remedies, which are required to be provided to a complainant when a respondent is found responsible, are designed to restore or preserve equal access to educational and vocational rehabilitation services. The remedies may include the same individualized services described as supportive measures. The remedies do not have to be non-disciplinary or non-punitive, and do not have to avoid burdening the respondent.
- Requires objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoids credibility determinations based on an individual's status as a complainant, respondent, or witness.
- Requires Title IX personnel (Title IX Coordinator, investigators, decision-makers, anyone who facilitates any informal resolution process) to be free from conflicts of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- Includes a presumption that the respondent is not responsible for the conduct alleged in the formal complaint until a determination regarding responsibility is made at the conclusion of the grievance process.
- Uses the preponderance of evidence standard for all Title IX formal complaints, including where employees are respondents.

Reporting of Alleged Title IX Prohibited Conduct

A report may be made by any person who believes that Title IX prohibited conduct may have occurred. DARS encourages anyone who experiences or becomes aware of an incident of Title IX prohibited conduct involving a client or employee to ***immediately*** report the incident to the Title IX Coordinator. The report can be submitted at any time (including during non-business hours) by telephone, mail, and email, or in person during the Title IX Coordinator's regular office hours.

Response to Reports of Alleged Title IX Prohibited Conduct

When DARS learns that someone is alleged to be a victim of Title IX prohibited conduct, DARS will act as follows:

- Promptly contact the individual to discuss supportive measures, whether that person decides to file a formal complaint or not.
- Consider that individual's wishes and offer appropriate supportive measures under the circumstances.
- Explain to the complainant the option for filing a formal complaint and the process for filing a formal complaint.
- Never pressure an individual into filing a formal complaint, or into participating in the grievance process.
- If needed, the Title IX Coordinator will contact the appropriate law enforcement agencies.

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- If the alleged respondent or complainant is a member of the DARS staff, the DARS Human Resources Division will process the alleged complaint of Title IX prohibited conduct.

Privacy and Confidentiality

DARS will provide assistance to complainants to make informed choices about their options under this policy. With respect to any report of conduct prohibited under this policy, DARS will make reasonable efforts to protect the privacy and confidentiality of the parties while balancing the need to gather information to assess the report and effectively and appropriately respond to the misconduct.

- DARS will abide by the grievance procedures contained in this document and will never use or attempt to use questions or evidence that is protected by a legally recognized privilege, such as attorney-client or doctor-patient privilege.
- DARS cannot unilaterally access or consider a party's records, if those records are made or maintained by a physician, psychiatrist, or other recognized professional and made for the purpose of providing treatment to the party. The records can only be accessed with a party's voluntary written consent.
- Questions regarding the complainant's prior sexual behavior will be limited to the following circumstances. Questions about the complainant's prior sexual behavior will not be reviewed with the respondent accused of sexual harassment, even in cases where the respondent already possesses evidence about sexual history with the complainant. Questions regarding a complainant's prior sexual behavior may only be considered during a grievance hearing when such information is provided to demonstrate/prove that someone other than the respondent committed the conduct at issue or if the questions and evidence are offered to prove consent and involve specific incidents of the complainant's prior sexual behavior with the respondent.

DARS will keep confidential the identity of any person who has reported conduct prohibited by this policy, or who has been reported as a perpetrator of conduct prohibited by this policy. This duty to protect confidentiality has three exceptions: if disclosure is permitted by the Family Educational Rights and Privacy Act (FERPA); if disclosure is required by law; or if disclosure is necessary to carry out the purposes of Title IX and its regulations, including the conduct of any investigation, hearing, or judicial proceeding. Where a complainant desires to initiate a grievance process, the complainant cannot remain anonymous or prevent the complainant's identity from being disclosed to the respondent.

Emergency Removals

- Based upon an individualized safety and risk analysis, DARS can remove a respondent from DARS' education programs or activities on an emergency basis if a determination is made that the respondent poses an immediate threat to anyone's physical health or safety.

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- If the respondent is an employee of DARS, DARS may place that employee on administrative leave during the investigation.
- DARS must provide the respondent with notice and the opportunity to challenge the decision immediately following the removal.

Mandatory and Discretionary Dismissal of Complaints

- DARS must dismiss allegations of conduct that do not meet the definition of sexual harassment or did not occur during a DARS activity against a person in the United States. Such dismissal is only for Title IX purposes and does not preclude DARS or any other entity from addressing the conduct in another manner deemed appropriate by DARS policy or federal or state law.
- DARS may, in its discretion, dismiss a formal complaint or allegations therein if the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein, if the respondent is no longer enrolled at or employed by DARS, or if specific circumstances prevent DARS from gathering sufficient information to reach a determination.
- DARS must give the parties written notice of a dismissal (mandatory or discretionary), the reasons for the dismissal, and notification of their right to appeal a dismissal notice; such appeal must be filed within ten (10) business days of the dismissal determination.

Informal Resolution

DARS may, in its discretion, choose to offer and facilitate informal resolution options, such as mediation or restorative practices, so long as both parties give voluntary, informed, written consent to attempt informal resolution. (See 34 CFR § 106.45(9)).

- Prior to initiating an informal resolution, DARS will provide the parties with written notice disclosing: the allegations at issue; the requirements of the informal resolution process, including the circumstances that preclude the parties from resuming a formal complaint arising from the same allegations; and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- DARS does not require as a condition of enrollment or continuing enrollment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, DARS will not require the parties to participate in an informal resolution process and will not offer an informal resolution process unless a formal complaint is filed.
- Any time prior to agreeing to a resolution, a party has the right to withdraw from the informal resolution process and resume the grievance with respect to the formal complaint.
- DARS does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a client.

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Any person designated to facilitate an informal resolution process may not have any conflict of interest or bias for or against complainants or respondents generally or against an individual complainant or respondent. Any person designated to facilitate an informal resolution process must receive training on the definition of sexual harassment, the scope of the relevant DARS education program or activity, how to conduct an investigation and grievance process including hearings, appeals and informal resolution processes, as well as how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Supportive Measures for Complainants and Respondents

The Title IX Coordinator will provide every complainant with information about the availability and range of supportive measures upon receipt of a report of Title IX prohibited conduct, with or without a formal complaint, and seek to understand the complainant's wishes regarding supportive measures. Further, as appropriate, and necessary, the Title IX Coordinator will inform the respondent of the availability of supportive measures and seek to understand the respondent's wishes regarding supportive measures.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. DARS maintains as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of DARS to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

GRIEVANCE PROCESS FOR FORMAL COMPLAINTS

The grievance process is initiated when one of the following occurs:

- A complainant signs a formal complaint requesting that DARS investigate allegations of a violation of this policy; or
- The Title IX Coordinator signs a formal complaint to initiate the grievance process and investigation.

Timeframe for Resolution

DARS seeks to resolve all reports of alleged Title IX violations within 120 business days of the initial report. This timeframe includes the investigation, the hearing, and the processing and resolution of any appeals. Extenuating circumstances may arise that require extension of the timeframes established in this policy. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, or other unforeseen circumstances.

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In general, the complainant and respondent can expect the process to adhere to the timeframe provided in this policy. If resolution exceeds the timeframe, the Title IX Coordinator will notify all parties of the reason(s) for the delay and the expected timeframe within which the grievance process will be complete. Best efforts will be made to complete the process in a timely manner.

Notice of Allegations

Upon receipt of a formal complaint of alleged Title IX prohibited conduct, the Title IX Coordinator will provide the following written notice to all known parties within five (5) business days of receiving a formal complaint:

- Notice that a formal complaint has been made.
- Notice of the alleged conduct that may constitute sexual harassment as defined herein, as well as details known about the allegations, including the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- The Notice will also include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process. The notice must also inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- Notice that the WWRC Code of Conduct prohibits knowingly furnishing false information or failure to truthfully cooperate in an inquiry or investigation by any WWRC official, faculty member, office, organization or on any applications.
- Notice that the Virginia Department of Human Resources Management Policy 1.60 Standards of Conduct (Attachment A) prohibits intentionally or with willful disregard the making of false or misleading statements, orally or in writing, in connection with any matter of official interest.
- Notice of DARS' grievance policy, including the Title IX informal resolution process.

Investigation

DARS will investigate the allegations in any formal complaint and send the above written notice to the complainant and respondent of the allegations within five (5) business days of receipt of a formal complaint. The investigator is expected to conduct a prompt, reliable and impartial investigation of all Title IX complaints. The investigation should be completed within 90 business days of receiving the formal complaint. DARS has the burden of gathering evidence and the burden of proof rests with DARS.

Investigation Overview

- Each party will be given equal opportunity to present fact and expert witnesses, as well as other inculpatory and exculpatory evidence. The complainant and the respondent will have the same opportunity to select an advisor of their choice who may be present in any meeting or grievance proceeding. The advisor may be, but does not have to be, an attorney. (See 34 C.F.R. § 106.45(b)(5)(iv)).
- The investigator will send written notice of any investigation interviews, meetings, or hearings to any party whose attendance is invited or expected. Such written notice will include the date, time, location, participants and purpose of the hearing, interview, or other meeting. The notice will be sent with sufficient time for the party to prepare to participate. (See 34 C.F.R. § 106.45(b)(5)(v)).
- The investigator will also provide the parties, and their advisors evidence directly related to the allegations, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence. The evidence can be provided in electronic format or hard copy, and the parties must be given at least ten business days to inspect, review and respond to the evidence prior to the conclusion of the investigation. Any written response received from the parties within this time frame will be considered by the investigator prior to the completion of the investigative report. (See 34 C.F.R. § 160.45(b)(5)(vi)).
- DARS may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. (See 34 C.F.R. § 160.45(b)(4)).
- The parties' privacy will be protected. Accordingly, a party's medical, psychological, and similar treatment records cannot be accessed or used in the investigation, unless DARS obtains the party's voluntary, written consent.
- An investigative report will be generated that fairly summarizes relevant evidence. At least ten business days prior to the hearing, the investigative report will be provided to each party and the party's advisor, for their review and written response. The investigative report can be provided in an electronic form or hard copy. (See 34 C.F.R. § 160.45(b)(5)(vii)).

Appointment of Investigator

The Title IX Coordinator will designate one or more investigators to conduct a prompt, thorough, fair, and impartial investigation. The investigator will be a trained individual from DARS, or an individual from a third party entity contracted with by DARS. The investigator must be impartial, free from any actual conflict of interest, or bias for or against complainants or respondents generally, or an individual complainant or respondent, and trained in accordance with this policy. The investigator will also receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

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A party who has concerns that the appointed investigator cannot conduct a fair and impartial investigation may report those concerns to the Title IX Coordinator.

Stages of the Investigation

All investigations must be thorough, reliable, impartial, prompt, and fair. Investigations involve interviewing all relevant parties and witnesses, obtaining relevant evidence and identifying sources of expert information, as necessary.

The investigation will be conducted in stages, as follows:

- Preliminary Investigation – During the preliminary investigation, the investigator will:
 - Interview all parties and conduct follow-up interviews as necessary. The investigator will provide written notice to any one whose participation is invited or expected, of the date, time, location, participants and purpose of the interview or meeting, with sufficient time for the party to prepare to participate.
 - Interview any relevant fact and expert witnesses identified by the parties, witnesses or investigator and conduct follow-up interviews as necessary.
 - Collect any available physical or documentary evidence, including prior statements by the parties or witnesses, any communication between the parties, email messages, social media, text messages and other records as appropriate and available.
 - Visit relevant sites or locations as necessary and record observations through written, photographic, or other means.
 - Consult medical, forensic, technological, or other experts when expertise on a topic is needed to achieve a fuller understanding of the issues under investigation.
 - Contact any law enforcement agency known to be conducting its own investigation to ascertain the extent to which any evidence collected by law enforcement may be available to DARS in its investigation.
 - Allow each party the opportunity to submit written, relevant questions they wish the investigator to ask the other party and witnesses. The opportunity to submit written questions may not be used to harass or intimidate a party or witness. The investigator has the discretion to rephrase a question while preserving the substance of the question or declining to ask a question that is harassing or abusive.
- Inspection and Review of Evidence and the Preliminary Investigative Report

Prior to the completion of the investigation, the investigator will prepare an outline of evidence summarizing all the evidence gathered. The parties will have the opportunity to inspect and review all evidence obtained as part of the investigation that is directly related to the allegations in the formal complaint. The purpose of this

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stage of the grievance process is to provide the parties with equal opportunity to review and respond to the evidence prior to the conclusion of the investigation.

Evidence that will be available for inspection and review will include:

- All evidence obtained by the investigator that is directly related to the allegations raised in the formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence. (See 34 C.F.R. §160.45(b)(5)(vi)).

The investigator will provide the parties access to the outline of evidence and the evidence described above in a secure manner. Interviews with the parties and witnesses will be audio-recorded and will also be provided to the parties for review. Neither the complainant nor the respondent (or their advisors) may print, copy, take photos or videos of the screen, audio or video record a reading of the material, or otherwise use analog or technology methods – known or unknown – to capture the content of evidence provided for inspection and review. The parties and their advisors will be asked to execute an evidence sharing agreement that includes these restrictions. Any party who fails to abide by the terms of the evidence sharing agreement may be subject to disciplinary action, if available, and/or excluded from further participation in the process.

The parties will have ten (10) business days from the date of the outline of evidence to review and respond to the evidence collected. This deadline may be extended for good cause, upon a party's request to the investigator. During the inspect and review period, the parties may meet with the investigator; submit comments on the evidence to the investigator; submit additional evidence or identify additional witnesses for the investigator to pursue; submit further questions that they believe should be directed by the investigator to a party or to any witness; and otherwise respond to evidence that has been included or excluded as an exhibit to the preliminary investigative report.

In the absence of good cause, evidence that is reasonably available to the parties that is not provided to the investigator at this juncture will not be considered at the hearing or any appeal.

- **Additional Investigation**

The investigator may conduct further investigation based on the information provided by the parties during the inspection and review period. If the parties do not provide any response, the investigator will conclude the investigation and prepare the final investigation report.

- **Final Investigative Report**

The investigator will prepare a final investigative report that fairly summarizes the relevant evidence, including relevant elements of the parties' responses to the preliminary investigative report and review. The final investigative report will not include findings of whether the conduct occurred as alleged and whether a policy violation occurred. These determinations will be made by the hearing officer, or by the decision-maker in instances where a hearing is not held or required. The investigator will share the final investigative report with the Title IX Coordinator who will send the final investigative report and exhibits to the parties and their advisors, if any, in an electronic format or hard copy, at least ten (10) business days prior to the hearing in instances where a hearing is held. When a hearing is not held or is not required to be held, the investigator will share the final investigative report with the Title IX Coordinator within five (5) business days of completing the report. The Title IX Coordinator will provide the final investigative report to the decision-maker within five (5) business days of receiving the report from the investigator. (See 34 C.F.R. § 160.45(b)(5)(vii)).

The parties will have five (5) business days from the issuance of the final investigative report to provide a written response to the Title IX Coordinator. Any responses received will be shared by the Title IX Coordinator with the other party.

Hearing

As part of the grievance process, DARS will provide a live hearing for complaints of Title IX violations that occur at WWRC. The hearing will be conducted after the investigative report has been shared with the parties and will be held at least ten (10) business days after the investigative report has been shared with the parties.

The hearing is an opportunity for the parties to address the hearing officer/decision-maker and to address the other party and witnesses through questioning by their advisor. At the hearing the hearing officer/decision-maker will obtain information necessary to determine whether the conduct alleged in the formal complaint occurred and whether the respondent violated Title IX.

Notice of Hearing

The hearing officer/decision-maker will send written notice of the hearing to the parties at least ten (10) business days prior to the hearing. The notice will include:

- The time, date, and location of the hearing;
- The name of the hearing officer/decision-maker;
- Information on how to object to the assigned hearing officer/decision-maker on the basis of bias or conflict of interest;
- The names of witnesses who will be called to appear at the hearing;

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- A reminder that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence;
- Any technology planned to be used during the hearing;
- Information on how the hearing will be recorded and how the parties may access the recording after the hearing;
- A reminder that an advisor must be present at the hearing for any questions a party wishes to ask of another party or witnesses. The advisor may be, but is not required to be, an attorney. If a party does not have an advisor present at the live hearing, DARS will provide an advisor without fee or charge to that party, to conduct cross-examination on behalf of the party. An advisor provided by DARS will be trained on the definition of sexual harassment, how to conduct an investigation, and the grievance process, including hearings, appeals and the informal resolution process.
- Information on how each party may submit an impact or mitigation statement to the Title IX Coordinator for the hearing officer/decision-maker to consider if there is any determination of sanction; and
- Information on how to request reasonable accommodations based on disability, language assistance, and/or interpretation services that may be needed at the hearing.

Appointment of Hearing Officer/Decision-Maker

The Title IX Coordinator will assign a hearing officer/decision-maker to administer the hearing. The hearing officer/decision-maker cannot be the same person as the Title IX Coordinator or the investigator. The hearing officer/decision-maker will also be trained on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. Such questions will only be relevant when such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or 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 consent. (See 34 CFR 106.45(b)(6)(ii)).

Access to Evidence

All evidence that was made available for the parties' inspection and review following the investigation will be available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for the purpose of cross-examination. The hearing officer/decision-maker will have access to the final investigative report, including exhibits, and the evidence that was made available for the parties' inspection and review. Such access to evidence will be given at least ten (10) business days prior to the hearing but will not include access to any notes by the investigator and/or Title IX Coordinator or any information obtained that is not relevant to the allegations asserted in the formal complaint.

Pre-Hearing Meeting

Prior to the hearing, the hearing officer/decision-maker will conduct a pre-hearing meeting with the parties and their advisors. The purpose of the meeting is to:

- Confirm the advisors for the parties who will be attending the hearing;
- Verify no bias or conflict of interest exists for or against complainants or respondents generally or an individual complainant or respondent;
- Review the date, time, and location for the hearing;
- Explain the order of proceeding and procedures to be followed in the hearing;
- Identify any requests for accommodations and safety concerns; and
- Resolve special considerations, answer questions, or share information prior to the hearing.

Hearing Format

The hearing officer/decision-maker is responsible for maintaining an orderly, fair and respectful hearing, and for determining the sequence of events during the hearing. The hearing officer/decision-maker may direct any person who fails to comply with procedures during the hearing or who disrupts or obstructs the hearing to leave the hearing. All evidentiary and procedural questions will be addressed to and ruled upon by the hearing officer/decision-maker.

Hearings are closed to the public. The individuals who may be at the hearing include:

- The complainant
- The respondent
- Advisors to the parties
- The investigator
- Any witnesses
- DARS employee(s)/contractors assigned with administration of the hearing including Security, if the hearing officer/decision maker determines such is needed.

The parties and their advisors may be present throughout the entire hearing, excluding deliberations. Witnesses, including the investigator, are present only when responding to questions and providing information to the decision-maker. A DARS employee may also be present to assist the administration of the hearing.

The parties will not be located in the same room for the hearing. Hearings are conducted through videoconference or similar technology, where the parties, witnesses, and the hearing officer/decision-maker can see and hear one another in real time. At DARS' discretion, all parties, witnesses, and other participants, including the hearing officer/decision-maker, may

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appear at the live hearing virtually, with technology enabling the participants to simultaneously see and hear each other.

Anyone appearing at the hearing to provide information will respond to questions on their own behalf. Cross-examination of the complainant, the respondent, and any witnesses shall not be conducted by the opposing party and must be conducted by their advisor. A party or the party's advisor may waive their right to cross-examine a party or a witness at the hearing. In reaching the determination, the hearing officer/decision-maker may consider relevant statements made by a party or witness, even if the individual declines to participate in the hearing or to submit to cross-examination in part or in whole. The hearing officer/decision-maker may not draw any inference about the determination regarding responsibility based solely on a party or witness declining to attend the hearing or to respond to cross-examination questions.

Before any cross-examination question is answered, the hearing officer/decision-maker will determine whether the question will be permitted, disallowed, or rephrased. The hearing officer/decision-maker has the authority to limit or disallow questions on the basis that they are irrelevant or abusive. Cross-examination questions that are duplicative of those already asked, including by the hearing officer/decision-maker, may be deemed irrelevant if they have been asked and answered. The hearing officer/decision-maker also has the authority to pause cross-examination at any time to ask follow-up questions or to enforce established rules of decorum.

The hearing will be recorded. The hearing officer/decision-maker is responsible for recording the hearing. This is the sole official recording of the hearing, and all other recording is prohibited. The recording will be made available to all parties for inspection and review in a secure manner, and subject to an agreement not to copy or disseminate any of the testimony heard or evidence obtained in the hearing. The hearing officer/decision-maker will forward a copy of the recording to the Title IX Coordinator.

Order of Proceedings

The hearing officer/decision-maker has the authority and discretion to determine the order of proceedings, including the start, conclusion, and duration of the proceedings. Typically, a hearing may include:

- The hearing officer/decision-maker calls the hearing to order.
- The hearing officer/decision-maker introduces all individuals presents and provides an opportunity for the parties to ask procedural questions.
- The hearing officer/decision-maker reads the alleged violations.
- The investigator presents a summary of the final investigative report, including undisputed and disputed material facts. The hearing officer/decision-maker may question the investigator, followed by the parties through their advisors.

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- The complainant may present information, including an opening statement, and will respond to questions by the hearing officer/decision-maker followed by the respondent's advisor.
- The respondent may present information, including an opening statement, and will respond to questions by the hearing officer/decision-maker followed by the complainant's advisor.
- Each of the party's witnesses appear and will respond to questions by the hearing officer/decision-maker followed by the parties' advisors.
- The complainant may make a brief closing statement.
- The respondent may make a brief closing statement.
- The hearing officer/decision-maker concludes the hearing and dismisses the parties.

Determination Regarding Responsibility

The hearing officer/decision-maker will issue a written determination regarding responsibility within thirty (30) business days of the conclusion of the hearing. The preponderance of evidence standard will be used to reach this determination.

- The written determination will include:
 - Identification of the allegations potentially constituting sexual harassment as defined herein;
 - 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 other evidence, and hearings held;
 - Findings of fact supporting the determination;
 - Conclusions regarding the application of the WWRC Student Code of Conduct and/or the DHRM Standards of Conduct for State Employees;
 - A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions DARS imposes on the respondent, and whether remedies designed to restore or preserve equal access to a DARS' education program or activity will be provided by DARS to the complainant; and
 - DARS' procedures and permissible bases for the complainant and respondent to appeal.
- The hearing officer/decision-maker will provide the written determination to DARS and to the parties simultaneously. The determination regarding responsibility becomes final: 1) if an appeal is filed, on the date that DARS provides the parties with the written determination of the result of the appeal, or 2) the date on which an appeal would no longer be timely.
- The Title IX Coordinator is responsible for effective implementation of any remedies.

Appeal

The appeal is an objective, independent review designed to detect any significant errors in the investigation or determination. The appeal is limited to the four bases described below and is not an opportunity for a party to reexamine each aspect of the hearing officer/decision-maker's decision or to seek a new review. Both parties have the right to appeal. The appeal officer(s) will review all appeals. Any sanction issued by the hearing officer/decision-maker(s) will not take effect until the conclusion of the appeal process or the expiration for filing an appeal. (See 34 C.F.R. §106.45(b)(8)).

With regard to all appeals, DARS will:

- Notify the non-appealing party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- Ensure that the hearing officer/decision-maker for the appeal is not the same person as the hearing officer/decision-maker that reached the determination being appealed, the investigator, or the Title IX Coordinator;
- Ensure that the appeal officer complies with the standards set forth herein;
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.

Appeal Officer

The appeal officer will receive training on the definition of sexual harassment, the scope of the recipient's education program or activity, how to conduct a grievance process, including information regarding investigations, hearings, appeals and the informal resolution process, and how to serve impartially, while avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Bases for Appeal

DARS will offer both parties an appeal from a determination regarding responsibility and the dismissal of a formal complaint or any allegations therein, on the following bases (See 34 C.F.R. § 106.45(b)(8)):

- Procedural irregularity that affected the outcome of the matter. The appeal must specify the procedural provision(s) that was violated and how it affected the outcome of the formal complaint.

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- 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.
- The Title IX Coordinator, investigator, or hearing/officer decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter. The appeal must specify the basis on which the appealing party believes the Title IX Coordinator, investigator, or hearing officer/decision-maker had an actual conflict of interest or bias and how it affected the outcome of the formal complaint.

Appeal Process

- The appeal must be submitted in writing to the Title IX Coordinator within ten (10) business days of a dismissal letter or written determination issued at the conclusion of the grievance process. The appeal must clearly cite the basis for the appeal and the evidence supporting the appeal. Except for appeals based on new evidence that was not reasonably available at the time of determination, an appealing party is prohibited from submitting evidence that was not previously submitted to the investigator or the hearing officer/decision-maker.
- The Title IX Coordinator will notify the non-appealing party that an appeal has been filed within five (5) business days of receipt of an appeal. The non-appealing party has five (5) business days from the date of notification by the Title IX Coordinator to provide a written response to the appeal but is not required to submit a response.
- Upon expiration of the deadline for the non-appealing party's written submission, the Title IX Coordinator will provide the appeal officer: 1) the appeal; 2) the non-appealing party's response, if provided; 3) the final investigation report; 4) the hearing officer/decision-maker's written determination; 5) any information reviewed and considered by the investigator or hearing officer/decision-maker; 6) all inculpatory and exculpatory evidence submitted to the investigator or hearing officer/decision-maker; and 7) a recording of the hearing. This group of documents are collectively called the Appeal Packet.
- The appeal officer will issue an appeal determination within ten (10) business days of receiving the Appeal Packet, unless the appeal officer requests an extension of the timeline for good cause from the Title IX Coordinator. In that instance, the Title IX Coordinator will inform the parties of the extension and will provide an updated response time. The appeal officer will provide the appeal determination, which will explain the result of the appeal and the rationale for the decision, to the Title IX Coordinator who will simultaneously issue the appeal determination to both parties.
- The appeal determination is not subject to further appeal or grievance.

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Remedies for Complainants

Remedies, where appropriate, will be provided to the complainant, designed to restore or preserve equal access to DARS programs and activities. Remedies may include:

- Imposition or extension of a no-contact directive
- Imposition or extension of programs, activities and/or housing modifications
- Imposition or extension of increased monitoring, supervision, and/or security at locations or in connection with activities where the prohibited conduct occurred
- Targeted or broad-based training for relevant persons or groups
- Imposition of restorative remedies for a respondent to learn more about Title IX prohibited conduct and its impact on others
- Imposition of any other remedial or protective measures that are tailored to achieve the goals of this policy and to promote a safe, nondiscriminatory environment.

Sanctions for Respondents

When a respondent is found responsible for the Title IX prohibited conduct alleged in the complaint, sanctions will be imposed that may include educational, restorative, rehabilitative, and punitive components. Based on the egregiousness of the conduct, more severe sanctions may be necessary, to include expulsion, termination, or suspension.

Retaliation Is Prohibited

Retaliation against any person who makes a complaint, cooperates with an investigation, or participates in a grievance procedure is a violation of DARS policy. Retaliation should be reported promptly to the Title IX Coordinator and may result in disciplinary action independent of any sanctions or interim measures imposed in response to the underlying allegations of Title IX prohibited conduct.

- Charging an individual with code of conduct violations that do not involve sexual harassment but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.
- Complaints alleging retaliation may be filed according to DARS' prompt and equitable grievance procedures.
- The exercise of rights protected under the First Amendment of the U.S. Constitution does not constitute retaliation.
- Charging an individual with a code of conduct violation does not constitute retaliation.

Record Keeping

DARS will maintain for a period of seven (7) years records of:

- Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording from the hearing;
- Any appeal and result therefrom;
- Any informal resolution and the result therefrom;
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. DARS will also make these training materials publicly available on its website; and
- Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX sexual harassment. In each instance DARS will document the basis for its conclusion that the response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to a DARS' education program or activity. If supportive measures are not provided to a complainant, DARS must document the reasons why such a response was not clearly unreasonable considering the known circumstance. The documentation of any basis or measure does not limit DARS in the future from providing additional explanation or detailing additional measures taken.