

**REGENTS' POLICY**  
**PART I – MISSION AND GENERAL PROVISIONS**  
**Chapter 01.04 – Sex and Gender-Based Discrimination Under Title IX**

The Board of Regents of the University of Alaska System affirms its commitment to educational programs and activities that are free of discrimination on the basis of sex and gender. Inquiries about the application of Title IX should be referred to the university's Title IX coordinator, the Assistant U.S. Secretary for Education, or both.

The board further affirms its commitment to respond appropriately to sexual harassment and sexual violence, in accordance with applicable law as amended from time to time, including Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act, Title VII of the Civil Rights Act of 1964 (which prohibits discrimination on the basis of sex in employment), Alaska Statute 18.80, and due process of law.

Except as explicitly stated otherwise, the provisions of this chapter are applicable only to matters addressed under Title IX of the Education Amendments of 1972 and supersede other provisions of Regents' Policy and University Regulation with respect to those matters. Sex and gender discrimination under Title VII, Alaska Statute 18.80, or other applicable authority will be addressed under Board of Regents' Chapter 01.02 or 09.02 as appropriate.

1. Chancellors will have primary responsibility for maintaining educational programs and activities free from discrimination of all kinds, including discrimination based on sex or gender, and for appropriate and timely response to sexual harassment and sexual violence at their respective universities, including extended sites;
2. Chancellors will provide updates to the board regarding compliance with this chapter at least bi-annually in December and June and more often as required by circumstances; and
3. The president will ensure system oversight and coordination among the universities in implementing this chapter.

**P01.04.010. Sex and Gender-Based Discrimination.**

- A. For purposes of this chapter "Sexual harassment" is a form of sex or gender-based discrimination, and is defined as conduct on the basis of sex or gender that satisfies one or more of the following:
  1. A university employee, agent, or contractor conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct;
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies

a person equal access to the university's education program or activity; or

3. "Sexual assault," "dating violence," "domestic violence," or "stalking" as defined in regulation.

University Regulation 01.04.010 further defines conduct constituting sexual harassment and sex and gender-based discrimination.

(08-14-20)

**P01.04.020. Definition of Complainant and Respondent.**

- A. A complainant is an individual who is reported to be the victim of conduct that could constitute sex or gender-based discrimination.
- B. A respondent is an individual who is reported to be the perpetrator of conduct that could constitute sex or gender-based discrimination.

(08-14-20)

**P01.04.030. Jurisdiction Over Complaints.**

Complaints, whether formal or informal, will only be pursued under this chapter if they:

- A. Involve conduct occurring within the university's education programs or activities;
- B. Involve a complainant participating or attempting to participate in the university's education program or activity at the time the complaint is filed;
- C. Involve a respondent participating or attempting to participate in the university's education program or activity; and
- D. Involve conduct occurring within the United States.

(08-14-20)

**P01.04.040. Title IX Coordinator.**

- A. Each of the three separately accredited universities within the university system—UAA, UAF, and UAS will have a Title IX coordinator. Each university's Title IX coordinator is responsible for the university's compliance with Title IX of the Education Amendments of 1972. Statewide employees are served by the Title IX coordinator in their geographic location.
- B. The Title IX coordinator will coordinate with disability services and other inclusivity professionals as appropriate to ensure that reasonable accommodations are made available to parties and participants with disabilities.

(08-14-20)

**P01.04.050. Confidentiality and Privacy.**

Issues of privacy and confidentiality play important roles in this chapter and may affect individuals differently. Privacy and confidentiality are related but distinct terms that are defined below. In some circumstances, the reporting responsibilities of university employees, or the university’s responsibility to investigate, may conflict with the preferences of the complainant or respondent with regard to privacy and confidentiality. Therefore, all individuals are encouraged to familiarize themselves with their options and responsibilities.

- A. “Confidentiality” refers to the circumstances under which information will or will not be disclosed to others. The university makes available several professionals, identified in University Regulations, who have legal confidentiality obligations. Conversations with these professionals are privileged. Information that an individual shares with them (including information about whether an individual has received services) will be disclosed to the Title IX staff or any other person only with the express written permission from the individual whose information will be disclosed, unless there is an imminent threat of serious harm to the individual or to others, or other legal obligation to reveal such information (e.g., if there is suspected abuse or neglect of a minor).
  
- B. “Privacy” refers to the discretion that will be exercised by the university in the course of any investigation or disciplinary process under this chapter. In all actions taken under this chapter, the university will take into consideration the privacy of the parties to the extent possible. In cases involving students, the Title IX staff may notify other university employees of the existence of the complaint for the purpose of implementing supportive measures. The university may issue a “timely warning” to the community regarding the incident when it poses an imminent threat, as required by the Clery Act. In such situations, the university will issue a warning in a way that protects the parties’ privacy to the greatest degree practicable. While not bound by confidentiality, Title IX staff will be discreet and will respect the privacy of those involved in the process. However, all parties should be aware that the university is a public institution subject to the Alaska Public Records Act and to requests for information in the course of litigation; as such, even records that are treated privately may become public.

(08-14-20)

**P01.04.060. Filing a Complaint or Report.**

- A. All members of the university community are encouraged to report any suspected sex or gender-based discrimination to the Title IX coordinator.
  
- B. Formal Complaint:

A “formal complaint” must meet the following requirements:

- 1. It must be a physically or electronically signed document;

2. It must allege sexual harassment committed by a person participating or attempting to participate in the university's education program or activity, as defined in P01.04.010; and
3. It must request an investigation into the harassment.

Further information regarding formal complaints is provided in University Regulation 01.04.060.

- C. There is no time limit on reporting sex or gender-based discrimination. However, because of jurisdictional limitations on when a complaint may be processed under this chapter, individuals who learn of sex or gender-based discrimination are encouraged to report it promptly, regardless of when it occurred.
- D. "Responsible employees" must report any sex or gender-based discrimination, regardless of who it involves, and regardless of the type of allegations, to the Title IX coordinator within twenty-four hours. All University of Alaska staff, faculty and residence life student employees are designated "responsible employees," with the limited exception of licensed professional mental health counselors, clergy, other persons with a professional license requiring confidentiality who are working within that license, and those employees who work in the student health and counseling centers. Student employees, with the exception of those working for residence life, are not designated responsible employees at the University of Alaska.
- E. The university strongly encourages students to report any sex or gender-based discrimination. Consequently, the university will provide amnesty for conduct that would warrant minor sanctions under the Student Code of Conduct, such as underage drinking or prohibited drug use, that is related to misconduct reported under this sex and gender-based discrimination chapter. Students granted amnesty may still be required to complete educational programs, and a pattern of amnesty requests can result in a decision by the student conduct administrator not to extend amnesty to the same person repeatedly.
- F. Alleged violations of federal, state, or local laws may also violate this sex and gender-based discrimination policy. The university reserves its right to pursue formal complaints and the grievance process under this chapter as well as other action in response to potential sex and gender-based discrimination, independent of criminal or other proceedings. University proceedings under this sex and gender-based discrimination chapter may precede, follow, or take place simultaneously with any other university or non-university proceedings. University actions will not be subject to challenge on the grounds that a non-university proceeding, including criminal charges, involving the same incident has been dismissed, reduced, settled, or otherwise resolved.

- G. Nothing in this chapter precludes a Title IX coordinator from initiating an action under Regents' Policy and University Regulation 01.02.025 if the allegations do not meet the jurisdictional requirements of this chapter.

(11-12-21)

**P01.04.070. Supportive Measures.**

The university offers various supportive measures, which are non-disciplinary, non-punitive individualized services offered as appropriate and as reasonably available, and without fee or charge to the complainant or respondent, before or after the filing of a formal complaint or where no formal complaint has been filed. Supportive measures are further described in University Regulation 01.04.070.

(08-14-20)

**P01.04.080. Notice of Allegations.**

Upon receipt of a formal complaint, the university will provide written notices to the complainant and respondent explaining their rights. The contents of the written notices are described in University Regulation 01.04.060.

(08-14-20)

**P01.04.090. Interim Removal of Respondent.**

- A. A student respondent may be removed from an education program or activity on an emergency basis, after the university has undertaken an individualized safety and risk analysis and has determined 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 university will immediately provide the respondent with notice regarding challenging the removal decision and will provide an opportunity to challenge the removal within a reasonable time period. The process for challenging the interim removal of a student is located in University Regulation 01.04.090.
- B. An employee respondent may be placed on administrative leave during the pendency of the grievance process outlined in this chapter. If the conduct alleged also violates provisions of Board of Regents Policy or University Regulation outside of this chapter, disciplinary action up to and including termination may occur and may precede the conclusion of the grievance process. This also applies to student employees.
- C. A third-party respondent may be trespassed or otherwise removed from the university's premises, programs, or activities during the pendency of this chapter's grievance process.

(08-14-20)

**P01.04.100. Retaliation Prohibited Against Complainants, Respondents, and Other Participants.**

- A. The university prohibits retaliation (including retaliatory harassment) against individuals who report sex or gender-based discrimination or who participate in this chapter's grievance process, even if the university ultimately concludes that no sex or gender-based discrimination occurred, or who refused to participate in any manner in this chapter's grievance process. A violation of this prohibition may result in discipline.
- B. Retaliation may be reported to the Title IX coordinator. If the alleged retaliation is reportedly caused by Title IX staff, the retaliation may alternately be reported to the university's chief human resources officer.
- C. Complaints of retaliation prohibited by this section may be filed under this chapter's grievance procedures or the procedures described in University Regulation 01.02.025. If a Title IX coordinator files a complaint of retaliation for conduct prohibited by this section, the complaint will be addressed using the procedures described in University Regulation 01.02.025.

(11-12-21)

**P01.04.110. Conflicts of Interest of Those Investigating or Adjudicating a Complaint.**

- A. The university does not permit actual conflicts of interest or an appearance of partiality, whether real or reasonably perceived, by those involved in handling complaints of sex or gender-based discrimination. No Title IX coordinator, investigator, decision-maker, or any person designated by the university to facilitate an informal resolution process may have a conflict of interest or bias for or against complainants or respondents generally or against an individual complainant or respondent.
- B. To challenge the participation of an individual described in this section based on a conflict of interest, a complainant or respondent may file a challenge with the Title IX coordinator or, if the challenge is concerning the Title IX coordinator, the chief human resources officer or his or her designee. Either the Title IX coordinator or the chief human resources officer, as appropriate, will promptly review the challenge and decide whether the challenged individual has an actual conflict or an appearance of partiality, whether real or reasonably perceived, that prevents his or her continued involvement.

(08-14-20)

**P01.04.120. Informal Resolution of the Complaint.**

At any time prior to reaching a determination regarding responsibility of a formal complaint, the university may attempt or encourage an informal resolution process that does not involve a full investigation and adjudication. Informal resolution is not available in cases alleging sex or gender-based discrimination by an employee against a student. The informal resolution process is described in University Regulation 01.04.120.

(08-14-20)

**P01.04.130. Mandatory and Voluntary Dismissal of Formal Complaints.**

- A. The Title IX coordinator shall dismiss formal complaints and end any grievance process under this chapter in matters that:
  - 1. Do not meet the definition of sexual harassment contained in Board of Regents’ Policy 01.04.010; or
  - 2. Did not occur within the university’s jurisdiction as defined in Board of Regents’ Policy 01.04.030.
- B. The Title IX coordinator may dismiss formal complaints and end any grievance process under this chapter if:
  - 1. The complainant notifies the Title IX coordinator in writing that they would like to withdraw a formal complaint or any allegations it contains;
  - 2. The respondent is no longer enrolled at or employed by the university; or
  - 3. Specific circumstances prevent the university from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- C. The Title IX coordinator may refer and/or re-initiate investigations of dismissed complaints under other applicable policies, including Regents’ Policy 01.02 and 09.02.

(08-14-20)

**P01.04.140. Appeal of Dismissal of Formal Complaint.**

The complainant and respondent each have a right to appeal a dismissal of a formal complaint or any of its allegations. Appeals of dismissals of formal complaints are described in University Regulation 01.04.140.

(08-14-20)

**P01.04.150. Consolidation of Formal Complaints.**

The Title IX coordinator may consolidate formal complaints. For example, a Title IX coordinator may consolidate several formal complaints of sexual harassment made by multiple complainants against one respondent, may consolidate formal complaints against multiple respondents made by one complainant, or may consolidate formal complaints where a complainant and respondent each accuse the other of misconduct. For consolidation to occur, the allegations of sex or gender-based discrimination must arise out of the same facts or circumstances and must be subject to this chapter.

(08-14-20)

**P01.04.160. The Grievance Process.**

The university will use the preponderance of the evidence standard during the grievance process. The respondent shall have the presumption of non-responsibility during the grievance process, meaning that they shall be presumed to not be responsible for any alleged sex or gender-based discrimination until a determination regarding responsibility is made at the conclusion of the grievance process.

A. Investigation:

1. As part of the formal resolution process, a Title IX investigator will conduct an investigation that provides an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence, and does not make credibility assessments based on a person’s status as a complainant, respondent, or witness.
2. Investigation procedures are described in University Regulation 01.04.160.

B. Hearing:

1. After the investigation is complete, the university will commence a hearing as part of the grievance process to determine, based on the facts developed by the investigation, whether the respondent is responsible for sex or gender-based discrimination.
2. Hearing procedures are described in University Regulation 01.04.160.

(08-14-20)

**P01.04.180. Appeals of a Determination of Responsibility.**

The complainant and respondent have the right to appeal a decision-maker’s determination regarding responsibility. Appeal procedures are described in University Regulation 01.04.180.

(08-14-20)



**UNIVERSITY REGULATION**  
**PART I – MISSION AND GENERAL PROVISIONS**  
**Chapter 01.04 - Sex and Gender-Based Discrimination Under Title IX**

**R01.04.010. Sex and Gender-Based Discrimination.**

A. Prohibited Conduct

1. “Sexual harassment” is a form of sex or gender-based discrimination that can be committed by individuals of any gender, can occur between individuals of the same or different genders, can occur between individuals involved in intimate or sexual relationships, or can occur between strangers or acquaintances. It is conduct on the basis of sex or gender that satisfies one or more of the following:
  - a. A university employee, agent, or contractor conditioning the provision of an aid, benefit, or service of the university on an individual’s participation in unwelcome sexual conduct;
  - b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university’s education program or activity. The following are some, but not all, examples of “unwelcome conduct”:
    - i. Consensual sexual conduct that unreasonably interferes with other employees’ work or other students’ studies, or creates a hostile, intimidating, or offensive working, living, or learning environment.
    - ii. Sexual exploitation. This occurs when a person takes non-consensual or abusive sexual advantage of another for the person’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, including but not limited to:
      1. invasion of sexual privacy, prostituting another person, nonconsensual video or audio-taping of sexual activity, going beyond the boundaries of consent (such as secretly letting others watch consensual sex), engaging in voyeurism;
      2. knowingly transmitting an STI or STD to another individual without that individual’s knowledge;
      3. intentionally or recklessly exposing one’s genitals for the purpose of sexual gratification; or

4. inducing another to expose their genitals.
- c. “Sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined in this regulation.
2. Retaliation. This occurs when a person intimidates, threatens, coerces, or discriminates against any person for the purpose of interfering with any right or privilege described in this chapter, or because the person has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this chapter.
- B. Complicity. Any person who intentionally aids or facilitates an act of sexual harassment will be subject to disciplinary action under all applicable policies and/or regulations.
- C. Definitions for purposes of this chapter:
1. “Coercion” is the use of pressure to compel another person to engage in any sexual activity against that person’s will. Coercion may include express or implied threats of physical, emotional, or other harm. Coercion invalidates consent.
  2. “Conflict of interest” exists when a reasonable person would conclude that a Title IX coordinator, Title IX investigator, decision-maker, or any person designated by the university to facilitate an informal resolution process either possesses an actual bias for or against complainants or respondents generally or has knowledge of or a personal or professional relationships with the complainant, respondent, or witnesses that could reasonably be perceived to preclude the individual from being able to investigate or adjudicate the matter fairly and impartially.
  3. “Consent” is the voluntary, informed, un-coerced agreement through words or actions freely given, that a reasonable person would interpret as a willingness to participate in mutually agreed-upon sexual acts. Consensual sexual activity happens when each partner willingly and affirmatively chooses to participate. A person who is incapacitated cannot consent.
  4. “Dating violence” is violence committed by a respondent:
    - a. who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
    - b. where the existence of such a relationship shall be 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.
- 5. “Day” is defined as a day that campus is open for business Monday through Friday, even if classes are not scheduled.
- 6. “Decision-maker” is the individual, individuals, or office responsible for determining responsibility and, if a respondent is determined to have engaged in sex or gender-based discrimination, imposing discipline on the respondent. The decision-maker may vary depending on the respondent’s university affiliation and shall be designated by the University of Alaska General Counsel or their designee.
- 7. “Domestic violence” includes verbal or physical assault, violating a protective order, terroristic threatening, burglary, criminal trespass, criminal mischief, harassment, arson, criminally negligent burning committed by a current or former spouse or intimate partner of the complainant, by a respondent with whom the complainant shares a child in common, by a respondent who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner or as a roommate, by a respondent similarly situated to a spouse of the complainant, or by any other respondent against an adult or youth complainant who is protected from that respondent’s acts under the domestic or family violence laws of Alaska.
- 8. “Education Program or Activity” is defined as:
  - a. any activity on university property or other locations that are part of the university’s operations, including any building owned or controlled by a student organization that is officially recognized by the university;
  - b. any behavior exhibited online or electronically via email, social media, text messaging, remote learning platforms, or other electronic means that involve the use of the university’s computing and network resources, including wifi;
  - c. any behavior occurring during the course of a university-sponsored program or activity, such as NCAA sports, clubs, travel, fraternity and sorority functions, conferences, internships, field camps, or field research, regardless of location; and
  - d. any situation in which the university exercised substantial control over the respondent and the context in which the respondent’s alleged behavior occurred.
- 9. “Employee” is a person employed in any capacity for wages or salary by the university.

10. “Exculpatory Evidence” is evidence that suggests lack of responsibility for violating university policy and regulation.
11. “Force” is the unwelcome use or threat (whether express or implied) of physical violence to compel another person to engage in any sexual activity against that person’s will. Force invalidates consent.
12. “Incapacitation” is when an individual is in a state or condition in which they are unable to make sound decisions. This can be due to sleep, age, unconsciousness, alcohol, drug use, or mental and/or other disability. For example, someone who is unable to articulate what, how, when, where, and/or with whom the person desires a sexual act to take place is incapacitated.
13. “Inculpatory Evidence” is evidence that suggests responsibility for violating university policy and regulation.
14. “Parties” is the collective reference to the complainant and respondent.
15. “Preponderance of the evidence” means it is more likely than not that alleged conduct occurred.
16. “Relevant” means evidence pertinent to proving whether facts material to the allegations are more or less likely to be true.
17. “Sex and gender-based discrimination” occurs when an individual is treated less favorably on the basis of that person’s sex or gender, which may also include on the basis of sexual orientation, gender identity or expression, pregnancy or pregnancy-related condition, or a sex stereotype. Sexual harassment is a form of this discrimination.
18. “Sexual assault” means an offense that meets any of the following definitions:
  - a. “Rape” is non-consensual vaginal or anal penetration, no matter how slight, of a person with any body part or object, or oral penetration by a sex organ of another person, including instances where the victim is incapable of giving consent because of their age or incapacitation.
  - b. “Fondling” is the non-consensual touching of the breasts, buttocks, or genitals of another person for the purpose of sexual gratification, including instances where the victim is incapable of giving consent because of their age or incapacitation. Fondling can occur over or under clothing.

- c. “Incest” is nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law where the act occurred.
  - d. “Statutory Rape” is nonforcible sexual intercourse with a person who is under the statutory age of consent as defined by law where the conduct occurred.
19. “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to either fear for their safety or the safety of others; or suffer substantial emotional distress.
20. “Statement” for purposes of this chapter has its ordinary meaning, but would not include evidence such as videos, photographs, or recordings that do not constitute a person’s intent to make factual assertions or to the extent that such evidence does not contain a person’s statements.
21. “Student” for purposes of this chapter, means a person academically affiliated with the university, regardless of whether the affiliation is for academic credit or enrollments status, and includes K-12 students participating in university programs as well as dual enrollment and middle-college programs.
22. “Third party” is any individual who was not a university employee or a student at the time the alleged conduct occurred and includes volunteers.
23. “Title IX investigator” is a trained investigator who operates under the oversight of a Title IX coordinator. If necessary, a Title IX coordinator may act as a Title IX investigator, but shall not act in both capacities on the same case.

(11-13-21)

**R01.04.060. Filing a Complaint or Report.**

**A. Limited Exceptions to Reporting**

- 1. “Responsible employees” are not required to report sex or gender-based discrimination that is disclosed:
  - a. During public awareness events focused on sex or gender-based discrimination (such as “Take Back the Night”); or
  - b. By a subject, as a response to an appropriate university research compliance office (e.g. IRB, ORIC, ORI) reviewed research protocol, provided that the disclosed sex or gender-based discrimination did not occur during administration of the research protocol.

The university may provide information about individuals' rights under Title IX and about available university and community resources and support at Public Awareness Events, however, and Institutional Review Boards may, in appropriate cases, require researchers to provide such information to all student subjects of IRB research.

**B. Initiating a Complaint**

1. Reports of sex or gender-based discrimination can be submitted to a Title IX coordinator in person, by email, in writing, or by telephone to the contacts above. Anonymous, informal, or unsigned complaints or reports are permitted, but they may not initiate the university's grievance process and significantly limit the Title IX staff's ability to investigate and provide supportive measures.

**UAA Title IX Coordinator**

3190 Alumni Drive, Suite 352, Anchorage, AK 99508

[uaa\\_titleix@alaska.edu](mailto:uaa_titleix@alaska.edu)

907-786-0818

[www.uaa.alaska.edu/about/equity-and-compliance/](http://www.uaa.alaska.edu/about/equity-and-compliance/)

**UAF Title IX Coordinator**

1692 Tok Lane, 3<sup>rd</sup> Floor Constitution Hall, Fairbanks, AK 99775

[uaf-tix@alaska.edu](mailto:uaf-tix@alaska.edu)

907-474-7300

[www.uaf.edu/equity](http://www.uaf.edu/equity)

**UAS Title IX Coordinator**

11066 Auke Lake Way, Novatney Building Room 103, Juneau, AK

99801 [uas.titleix@alaska.edu](mailto:uas.titleix@alaska.edu)

907-796-6371

[www.uas.alaska.edu/titleix](http://www.uas.alaska.edu/titleix)

2. If the allegations relate to a respondent who is a member of the Title IX staff, the report may be submitted to the chief human resources officer:

**Chief Human Resources Officer**

3890 University Lake Drive

University Lake Building Suite 101

Anchorage, AK 99508

907-786-1419

3. A formal complaint is a written document that alleges sexual harassment as defined in P01.04.010 and is signed, physically in writing or electronically through email, by one of the following:
  - a. the complainant;

- b. the parent or guardian of a minor complainant, or where the parent or guardian has an appropriately structured power of attorney, (if a parent or guardian has an appropriately structured power of attorney, the parent or guardian does not become the “complainant” but may file a complaint on behalf of the complainant); or
- c. the Title IX coordinator on behalf of the complainant. If a Title IX coordinator signs as a complainant on a party’s behalf, the reported “victim” remains the “complainant” and will be treated as the party filing the complaint.

C. Notice of Allegations

Upon the filing of a formal complaint, the Title IX coordinator will provide the parties with:

1. Notice of the university’s grievance process as provided in this chapter;
2. Notice of the allegations potentially constituting sexual harassment, as defined in this chapter, including sufficient details and with sufficient time to prepare a response before any initial interview. Sufficient details include:
  - a. the identities of the parties involved in the incident, if known;
  - b. the conduct allegedly constituting sexual harassment; and
  - c. the date and location of the alleged incident or incidents, if known;
3. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
4. Notice that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney. The notice will request that the parties inform the Title IX coordinator if they want the university to supply an advisor;
5. Notice that the complainant and respondent may inspect and review evidence collected in the course of any investigation;
6. Notice that misrepresenting the truth during a university investigation and/or making false statements to any university official or office is a violation of the Student Code of Conduct for students under University Regulation 09.02.020(2)(b) and is subject to Corrective Action for employees under University Policy 04.07.040; and
7. Notice of the range of possible disciplinary sanctions and remedies.

If, in the course of an investigation, the university decides to investigate allegations about

the complainant or respondent that are not included in the notice provided, the Title IX coordinator will provide notice of the additional allegations.

(03-04-22)

**R01.04.070. Supportive Measures.**

- A. The Title IX coordinator will inform the complainant and respondent in writing of the availability of reasonable and appropriate supportive measures. Supportive measures are available with or without filing a formal complaint and may include but are not limited to:
1. Providing access to counseling services and assistance in arranging an initial appointment;
  2. Providing access to confidential advocacy services and assistance in arranging an initial appointment;
  3. Rescheduling of exams and assignments;
  4. Changing class schedules;
  5. Providing access to academic advising services;
  6. Changing university work schedule or job assignment;
  7. Changing campus housing;
  8. Authorizing tuition, housing, or other fee refunds;
  9. Providing access to medical services;
  10. Imposing an on-campus “no contact order,” an administrative remedy designed to stop contact and communications between two or more individuals;
  11. Making transportation arrangements;
  12. Increased security and monitoring of certain areas of the campus;
  13. Providing any other measure that can be used to achieve the goals of this sex and gender-based discrimination policy.
- B. Parties may request to change supportive measures at any time by submitting the request to the Title IX coordinator. Supportive measures affecting the respondent may be restrictive but not punitive and will reflect the relevant circumstances.
- C. Supportive measures will be kept private to the degree that maintaining such privacy will not impair the university’s ability to provide them.

(08-14-20)



#### **R01.04.090. Challenging an Interim Removal of Respondent.**

- A. A student respondent removed from an educational program or activity through an interim removal may challenge their removal. The challenge must be submitted in writing to the chancellor and explain:
1. why their removal is inappropriate or no longer necessary,
  2. what material facts, if any, are disputed,
  3. the impacts of removal on the respondent, and
  4. less disruptive alternatives, such as on-line classes, geographic restrictions, or off-campus housing, that can be used to keep the respondent in the educational program or activity without disrupting the complainant's participation.
- B. The chancellor, or their designee, will review the challenge and any relevant information and decide whether any change to the respondent's removal is warranted or whether less restrictive conditions could reasonably be imposed. Barring extenuating circumstances, the chancellor or their designee will respond to a challenge in writing within five days.

(08-14-20)

#### **R01.04.120. Informal Resolution of a Formal Complaint.**

- A. After a formal complaint has been filed any time prior to reaching a determination regarding responsibility, the parties may decide to resolve a formal complaint through informal resolution such as mediation, training, restorative justice, developmental opportunities, and apologies. Requests to engage in informal resolution may be made by either the complainant or respondent or may be suggested by Title IX staff. Both parties must agree to informal resolution in writing. If it becomes necessary to extend the process due to the parties' use of informal resolution, both parties will be notified of a revised expected resolution timeframe.
- B. Any informal resolution process will provide the complainant and respondent:
1. The allegations;
  2. The requirements of the informal resolution process, including circumstances under which it precludes the parties from resuming a formal complaint from the same facts and circumstances forming the basis of allegations;
  3. Notice that at any time prior to agreeing to a resolution, any party or the university has the right to withdraw from and end the informal resolution process and resume the grievance process with respect to the formal complaint;

- C. The campus Title IX coordinator, or their designee, shall offer and implement any informal resolution. The Title IX coordinator's decisions regarding how informal resolution will be implemented are final and not subject to appeal.

(08-14-20)

#### **R01.04.140. Appeal of a Dismissal of a Formal Complaint.**

- A. An appeal of a dismissal of a formal complaint must be based on:
  - 1. A procedural irregularity that affected the dismissal decision;
  - 2. New evidence that was not reasonably available at the time the dismissal decision was made and that could affect the outcome of the matter; or
  - 3. The Title IX coordinator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent and it affected the dismissal decision.
- B. To appeal the dismissal of a formal complaint, within 5 days of receipt of the dismissal, a complainant or respondent must submit a written appeal to the chancellor or, in the case of statewide employees, to the president. The president, chancellor, or their designee will review the appeal and render a prompt, written decision either upholding the dismissal, overturning it and sending it back to the Title IX coordinator for further investigation, overturning it and sending it to a different Title IX coordinator if a conflict exists, or seeking more information.

(08-14-20)

#### **R01.04.160. Grievance Process.**

- A. Time Frames
  - 1. A reasonably prompt timeframe for conclusion of the grievance process, including time for filing and resolving appeals and participation in any informal resolution processes, is defined as 180 days. This timeframe allows for a temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the parties. Notice of any significant delay or extension will include the reasons for the delay. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; employee turnover; extreme weather or natural disasters; campus closures; serious personal emergencies such as a death in a party's family; or the need for language assistance or accommodation of disabilities.

## B. Advisors

1. A party may have an advisor assist them throughout the entire grievance process if they so choose, but must designate a single advisor and may not be simultaneously represented by multiple advisors.
2. Each party has a right to have an advisor to assist them through the grievance process's hearing. The advisor may be a friend, relative, student, faculty or staff member, advocacy organization staff member or volunteer, union representative, or attorney. Any cost associated with the party's advisor of choice is the party's responsibility. A witness in the grievance process may also be an advisor, and any perceived "conflict of interest" will be taken into account by the decision-maker.
3. A party who has an advisor must notify the university in writing of their advisor's identity and contact information. If the party changes advisors, the party must notify the university and provide new contact information.
4. The university expects advisors to conduct themselves with decorum and candor towards the decision-maker, parties, and participants. Specifically, advisors may not act in an abusive, intimidating, or disrespectful manner towards the decision-maker or any party or participant in the grievance process. Advisors who fail to meet this standard will be removed from hearings.
5. If a party does not have an advisor at the time that the Title IX investigator's report is released, the Title IX coordinator or designee will appoint one to conduct cross-examination on behalf of that party at the hearing. Appointment of an advisor will take place at least 10 days prior to any hearing. Decisions regarding the appointment of advisors are not subject to challenge or appeal.

## C. Investigation Process

1. Investigations will be conducted by a Title IX investigator. The Title IX investigator will ensure that the burden of proof and the burden of gathering evidence rests on the university and not on the complainant or the respondent. The Title IX investigator will engage in an objective evaluation of all relevant evidence. The investigator will determine the relevance of any information. Neither state nor federal rules of evidence apply in the investigation or any related proceeding, including appeals.
2. In general, the investigator will not consider statements of personal opinion or statements as to any party's general reputation, particularly regarding their sexual history, unless the statements are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if they concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

3. Credibility determinations may be made but will not be based on a person's status as a complainant, respondent, or witness.
4. The Title IX investigator will provide an equal opportunity for the parties to offer witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The university will not bear any cost associated with witness fees, travel, or expenses.
5. The Title IX investigator will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence, except to the extent that a "no contact" order is in place. If a "no contact" order is in place prohibiting the individuals subject to the order from contact and it is necessary for one party or their advisor to contact the other party to discuss the allegations under investigation or to gather and present relevant evidence, prior arrangements must be made with the Title IX investigator. Such contact may not be used to threaten or intimidate a party, and threats or intimidation may result in discipline.
6. The Title IX investigator will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, and not limit the choice or presence of an advisor for either the complainant or respondent in any related meeting or proceeding. If the respondent is a bargaining unit employee, the employee has a right to union representation during any investigatory interview with the employee. If a union representative is present for a bargaining unit employee's interview, the union representative will also receive a copy of the written findings of the investigation. Findings will also be provided to the relevant union if required by the collective bargaining agreement.
7. The Title IX investigator will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare for their participation.
8. The Title IX investigator will provide the parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility. This includes any inculpatory or exculpatory evidence, whether obtained from a party or other source.
9. Prior to completion of the investigative report, the Title IX coordinator will simultaneously send to each party and the party's advisor, if any, all evidence directly related to the complaint, including the evidence upon which the university does not intend to rely in reaching a determination regarding

responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source. Evidence collected that is not directly related to the complaint may be withheld or redacted.

10. Evidence will be subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 days to submit a written response to the evidence, which the investigator will consider prior to completion of the investigative report. The Title IX coordinator may require that the parties and their advisors, if any, sign a non-disclosure agreement prior to any release of information under this provision that limits disclosure to those with a legitimate need to know and prohibits dissemination of private or confidential material.
11. The Title IX investigator will write an investigative report that does not make a finding but fairly summarizes relevant evidence, makes relevant credibility assessments, and considers each party's written response to the evidence and, at least 10 days prior to a hearing, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

#### D. Hearings

1. Once the Title IX investigator distributes the investigative report to the complainant and respondent, the university's Office of General Counsel will timely appoint a decision-maker to conduct a hearing. The decision-maker will not be the campus Title IX coordinator or investigator, but may be a Title IX coordinator or investigator from another campus or any other qualified person.
2. The hearing will be live and may be conducted with all parties physically present in the same geographic location or, at the university's discretion or a party's request, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants to simultaneously see and hear each other.
3. Hearings will last no longer than two business days. The university, complainant, or respondent may request additional time, but hearings will only be extended at the decision-maker's discretion. A party may request a one day delay of the hearing if their advisor fails to appear and a Title IX coordinator may delay the hearing a reasonable amount of time in the event that either party's advisor fails to appear.
4. Non-party attendance at the hearing is within the decision-maker's discretion, and the decision-maker may exclude any and all persons from the hearing other than the university's representatives, the parties, their advisors, a union representative, if applicable, and other individuals as required by law. With the exception of advisors if they are also witnesses, any person that a party intends

to call as a witness may not be present in the hearing, except while testifying, until after their testimony is concluded.

5. The decision-maker may allow the university, complainant, and respondent (or their advisor) to make a brief opening statement. No party shall be compelled to make an opening statement.
6. The decision-maker may, at the decision-maker's discretion, ask questions during the hearing of any party or witness and may be the first person to ask questions of any party or witness. A party has no obligation to respond to questions from the decision-maker, and no inference may be drawn from such a refusal.
7. The Title IX investigator will present the relevant evidence gathered during the investigation, including, but not limited to, witness testimony, photographs, video, digital or audio recordings, and physical evidence.
8. The decision-maker will allow each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
9. An advisor may only ask relevant cross-examination questions of a party or witness. Before a complainant, respondent, or witness responds to a cross-examination or any other question, the decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The decision-maker will not use rules of evidence other than rules of relevance in deciding to include or exclude evidence.
  - a. The decision-maker may require questions to be submitted prior to the hearing so their relevance can be determined, and the parties may submit their questions prior to the hearing so that relevance can be pre-established.
  - b. A party's advisor may object to a question's relevance once. Once the decision-maker determines to include or exclude the question, no further objection may be made.
  - c. If a party or witness disagrees with the decision-maker's relevance determination, they have the choice of either abiding by the decision-maker's determination and answering the question or refusing to answer the question.
10. Each party's advisor may cross-examine each witness once, unless the decision-maker allows a second round of cross-examination based upon good cause.

11. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior 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.
12. Responses to Cross-Examination:
  - a. The decision-maker may consider statements made by parties or witnesses that are otherwise permitted under the regulations, regardless of whether the statement is subject to cross-examination.
  - b. The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
13. If a complainant or respondent chooses not to attend the hearing, their advisor may nonetheless appear and conduct cross-examination. If both a party and their advisor fail to attend the hearing, the Title IX coordinator will appoint an advisor to represent the missing party's interests.
14. Neither party's medical, psychological, and similar records will be submitted as evidence or considered by the decision-maker unless that party has given voluntary, written consent.
15. The complainant and respondent may each call witnesses not presented by the investigator, and each party's advisor will have the opportunity to cross-examine any witnesses called. No party shall be able to compel witness testimony.
16. The decision-maker may allow the university, complainant, and respondent (or their advisor) to make a brief closing statement. No party shall be compelled to make a closing statement.
17. The decision-maker will create an audio or audiovisual recording, or transcript, of the live hearing and will provide it to the Title IX coordinator upon the hearing's completion. The Title IX office will retain copies of the audio or audiovisual recording, or transcript, of the live hearing and make it available to the parties for inspection and review. No party shall have a right to be provided a copy of the record.
18. The decision-maker must issue a written determination regarding responsibility using the preponderance of the evidence standard within 30 days, and this deadline may be extended for good cause with written notice to both parties. If

there is a finding of responsibility, the determination must address appropriate discipline and remedies.

19. The authority to suspend or expel a respondent under this chapter is hereby delegated to the decision-maker by the president of the university. The decision-maker may not re-delegate this authority.
20. The written determination regarding responsibility must be provided to the parties simultaneously and must include:
  - a. Identification of the allegations potentially constituting sex or gender-based discrimination as defined in this chapter;
  - b. 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, each party's evidence review, and hearings held;
  - c. Findings of fact supporting the determination;
  - d. Conclusions regarding the application of this chapter to the facts, including a statement of, and rationale for, the result as to each allegation and a determination regarding responsibility or non-responsibility;
  - e. Any disciplinary sanctions the university imposes on the respondent and the date sanctions take effect, absent any appeal;
  - f. Whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided by the university to the complainant, along with the remedies to be provided; and
  - g. The university's procedures and permissible bases for the complainant and respondent to appeal.
21. The range of possible sanctions for students are:
  - a. Letter of Expectations. A letter of expectations indicates the deficiencies in a student's conduct and the standards a student is expected to meet.
  - b. Disciplinary Probation. Disciplinary probation is a written warning that includes the probability of more severe disciplinary sanctions if the student is found to engage in specified conduct during a specified period of time (the probationary period).
  - c. Denial of Benefits. Specific benefits may be denied a respondent for a designated period of time.



- d. Restitution. A respondent may be required to reimburse the university or other victims related to the misconduct for damage to or misappropriation of property, or for reasonable expenses incurred.
- e. Discretionary Sanction. Discretionary sanctions include community service work or other uncompensated labor, educational classes, research papers, reflective essays, counseling, or other sanctions appropriate. Costs incurred by the respondent in fulfilling a discretionary sanction will typically be the responsibility of the respondent.
- f. Restricted Access. A respondent may be restricted from entering certain designated areas and/or facilities or from using specific equipment for a specified period of time.
- g. Suspension. Suspension is the separation of the respondent from the university for a specified period of time, after which the respondent may be eligible to return. Conditions under which the suspension may be removed and for re-enrollment can be found at University Regulation 09.02. During the period of suspension, the respondent may be prohibited from participation in any activity sponsored or authorized by the university and may be barred from all property owned or controlled by the university, except as stated on the notification.
- h. Expulsion. Expulsion is the permanent separation of the respondent from the university. The respondent may be prohibited from participation in any activity sponsored or authorized by the university and may be barred from property owned or controlled by the university except as stated on the notice of expulsion.
- i. Revocation of a Degree. Any degree previously conferred by the university may be revoked if the student is found to have committed academic misconduct in pursuit of that degree, such as an education student who sexually harasses a minor K-12 student during a teaching internship or a nursing student who sexually harasses a patient during an externship placement.
- j. The conditions, if any, for re-enrollment and reinstatement of university benefits lost through imposition of a sanction will depend upon the disciplinary sanctions imposed and will be specified in the determination. The authority to reinstate a respondent following a suspension or expulsion under this chapter is hereby delegated to the chancellors by the president of the University of Alaska. Chancellors may not re-delegate this authority. Any respondent who is reinstated will be on university disciplinary probation for a minimum of one year from the date of re-enrollment.

22. The range of possible sanctions for employees are:
- a. Written Reprimand. The written reprimand will be placed in the respondent's official personnel file.
  - b. Disciplinary Probation. A respondent may be placed on disciplinary probation for a period not exceeding six months. Failure to meet the disciplinary performance standards or employment conditions may result in termination of employment for cause.
  - c. Suspension. A respondent may be suspended without pay for not more than 10 working days. A suspended respondent will not receive holidays, wages, sick or annual leave accrual or other benefits based on hours worked during the leave period, but will continue to be covered by the applicable group insurance program.
  - d. Termination for Cause. A respondent may be terminated from employment for cause.
23. For third-party respondents, sanctions may include, but are not limited to, temporary or permanent bans from university property, employment, educational programs, and activities.

(11-13-21)

**R01.04.170. Remedies.**

- A. If the grievance process results in a finding of responsibility, the Title IX coordinator is responsible for effective implementation of any remedies imposed by the decision-maker.
1. When a respondent is found to have engaged in sex or gender-based discrimination, the university will take prompt and effective steps to restore or preserve equal access to the university's education program or activity.
  2. Remedial efforts may include, but are not limited to, making permanent any supportive measures imposed, or otherwise taking any action identified in the regulations governing supportive measures. Remedies may be disciplinary or punitive to the respondent and need not avoid burdening the respondent.

(08-14-20)

**R01.04.180. Appeals of Determination of Responsibility.**

- A. Students, non-affiliated parties, and non-bargaining unit employees: The complainant and respondent each have a right to appeal a determination regarding responsibility.
1. An appeal must be based on:
    - a. A procedural irregularity that materially affected the outcome of the matter, including a decision-maker's determination regarding relevance;

- b. New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could materially affect the outcome of the matter; or
  - c. The Title IX coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that materially affected the outcome of the matter.
2. To appeal, a complainant or respondent must submit a written request to appeal, within 5 days of receipt of the determination regarding responsibility, to their campus chancellor. (Statewide employees must file their appeal with the president of the University of Alaska). Upon receipt of a request to appeal a decision under this chapter, the chancellor or president shall allow the complainant and respondent to have 15 days to submit a written statement in support of, or challenging, the outcome, but no party is obligated to submit a statement, nor shall a party's decision not to file a statement be held against them. The chancellor or president may consider the grievance process record and take such action as the chancellor or president deems appropriate. The chancellor or president will issue a written decision describing the result of the appeal and the rationale for the result and will provide the decision to the complainant and respondent simultaneously.
- B. Bargaining unit employees who have been found responsible and disciplined pursuant to this sex and gender-based discrimination chapter must resolve any dispute regarding the responsibility findings or discipline through the dispute resolution processes provided in their collective bargaining agreement.

(08-14-20)

**R01.04.190. Appeal to Superior Court of Final Determinations Issued Under this Chapter Pursuant to Alaska Appellate Rule 602(a).**

- A. The university's determination regarding responsibility becomes final either:
- 1. If an appeal is filed, on the date that the university provides the parties with the written determination of the result of the appeal; or
  - 2. If an appeal is not timely filed, on the date the determination was distributed.
- B. A final decision issued under this chapter may be subject to appeal to the superior court for the State of Alaska. Any appeal must be filed within 30 calendar days of the date on which the final university decision was distributed.

(08-14-20)