

BOWIE STATE UNIVERSITY PROCEDURES FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION POLICY FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD PARTIES

1) Overview

Bowie State University will act on any Notice/Formal Complaint of violation of the Equal Opportunity, Harassment, and Nondiscrimination policy ("the Policy") that the Title IX Coordinator or any other Official with Authority receives. Bowie State University uses two sets of procedures, known as Process A and Process B. Process A is compliant with the federal Title IX regulations. It involves an investigation and live hearing, including cross-examination. It also includes an Informal Resolution option.

Process A is applicable to all Formal Complaints of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking that occur within Bowie State University's Education Program or Activity.

Process B applies to: (1) Formal Complaints of alleged Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking that fall outside of Bowie State University's Education Program or Activity; and (2) all other complaints of Discrimination, Harassment, and Retaliation on the basis of all Protected Characteristics. The choice between applying Process A or B is solely at the Title IX Coordinator's discretion. Occasionally, a Formal Complaint will include conduct that falls within both Processes A and B. When that occurs, Process A will typically be used to address all allegations.

Unionized/other categorized Employees are subject to the terms of their agreements/employees' rights to the extent those agreements do not conflict with federal or state compliance obligations.

2) Notice/Complaint

Upon receipt of Notice or a Formal Complaint of an alleged Policy violation, the Title IX Coordinator will initiate a prompt initial assessment to determine Bowie State University's next steps. The Title IX Coordinator will contact the Complainant to offer supportive measures, provide information regarding resolution options, and determine how they wish to proceed.

3) Collateral Misconduct

Collateral misconduct includes potential violations of other Bowie State University policies that occur in conjunction with alleged violations of the Policy, or that arise through the course of the investigation, for which it makes sense to provide one resolution for all allegations. Thus, the collateral allegations may be charged along with potential violations of the Policy, to be resolved jointly under these Procedures.¹ In such circumstances, the Title IX Coordinator may consult with Bowie State University officials who typically oversee such conduct (e.g., human resources, student conduct, academic affairs) to solicit their input as needed on what charges should be filed, but the exercise of collateral charges under these procedures is within the Title IX Coordinator's discretion. All other allegations of misconduct unrelated to incidents covered by the Policy will typically be addressed separately through procedures described in the Student, Faculty, and Employee handbooks.

¹ The same procedural rights apply to prohibited conduct under the Policy as well as to any collateral misconduct allegations that are charged.

FORMAL GRIEVANCE PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON EQUAL OPPORTUNITY, HARASSMENT AND NONDISCRIMINATION (KNOWN AS PROCESS “A”)

1. Initial Assessment

The Title IX Coordinator conducts an initial assessment, typically within five (5) business days of receiving Notice or a Formal Complaint.² The initial assessment typically includes:

- Assessing whether the reported conduct may reasonably constitute a Policy violation
- Determining whether Bowie State University has jurisdiction over the reported conduct
- Offering and coordinating supportive measures for the Parties
- Notifying the Complainant, or the person who reported the allegation(s), of the available resolution options
- Determining whether the Complainant wishes to file a Formal Complaint
- Notifying the Respondent of the available resolution options if a Formal Complaint is made

Helping a Complainant Understand Resolution Options

If the Complainant indicates they wish to file a Formal Complaint, the Title IX Coordinator will work with the Complainant to determine which resolution option they prefer. The Title IX Coordinator will seek to abide by the Complainant’s wishes but may have to take another approach depending upon their assessment of the situation.

If the Formal Grievance Process is chosen, the Title IX Coordinator will initiate an investigation.

If any party indicates that they want to pursue an Informal Resolution option, the Title IX Coordinator will refer the matter to the appropriate individuals(s) if the Title IX Coordinator determines Informal Resolution is available and the other Parties consent to participate. Informal Resolution cannot be used to resolve a Formal Complaint of Title IX Sexual Harassment involving an Employee Respondent and a Student Complainant.³

If the Complainant does not want any action taken, the Title IX Coordinator will consider that request. Typically, allegations of Student-on-Student misconduct will not prompt the Formal Grievance Process unless deemed necessary by the Title IX Coordinator, though the Complainant can elect to pursue the formal process in the future. Employee-on-Employee matters will prompt the Formal Grievance Process. The Title IX Coordinator may need to refer

² If circumstances require, the Director of the Office of Equity Compliance or Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable, unable to fulfill their duties, or have a conflict of interest.

³ 34 C.F.R. § 106.45.

allegations of Employee-on-Student misconduct to the Formal Grievance Process regardless of the Complainant's wishes, depending on the nature of the allegations.

Title IX Coordinator Authority to Initiate a Complaint

The Title IX Coordinator has ultimate discretion as to whether a Formal Complaint is made and may consult with appropriate Bowie State University Employees, and/or conduct a violence risk assessment to aid their determination whether to sign a Formal Complaint on behalf of the Complainant. The Title IX Coordinator may consider elements such as patterns of behavior, predation, threats, violence, use of weapons, or involvement of minors in determining whether to sign a Formal Complaint.

If a Complainant is not participating or attempting to participate in Bowie State University's Education Program or Activity at the time of making a Formal Complaint, they can request that the Title IX Coordinator sign a Formal Complaint. When the Title IX Coordinator signs a Formal Complaint, they do not become the Complainant. The Complainant is the person who experienced the alleged misconduct. If the Title IX Coordinator declines to sign a Formal Complaint, alternative processes may be available and can be explored with the Title IX Coordinator.

2. Dismissal (Mandatory and Discretionary)⁴

Bowie State University **must** dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined above, even if proven
- 2) The Sex-based conduct did not occur in Bowie State University's Education Program or Activity (including buildings or property controlled by recognized student organizations), and/or Bowie State University does not have control of the Respondent
- 3) The Sex-based conduct did not occur against a person in the United States
- 4) The Complainant alleges that Sex-based conduct is not participating in or attempting to participate in Bowie State University's Education Program or Activity at the time of filing the Formal Complaint, and based on the available information, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on Bowie State University's behalf⁵

⁴ These dismissal requirements are mandated by 34 CFR § 106.45.

⁵ A Complainant who is not participating or attempting to participate in Bowie State University's Education Program or Activity is still entitled to supportive measures, but the Formal Grievance Process is not applicable unless the Title IX Coordinator signs the Formal Complaint in the event the Complainant cannot/will not do so.

Bowie State University **may** dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
- 2) The Respondent is no longer enrolled in or employed by Bowie State University
- 3) Specific circumstances prevent Bowie State University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein

A Complainant who decides to withdraw a Formal Complaint may later request to reinstate it or refile it.

Upon any dismissal, Bowie State University will promptly and simultaneously send the Parties written notice of the dismissal and the rationale for doing so.

This dismissal decision is appealable by any party.

When the Title IX Coordinator has signed a Formal Complaint and later determines that the basis for signing is no longer compelling, the Title IX Coordinator may rescind the Formal Complaint and notify the Parties accordingly. This is not a dismissal, and there is no opportunity to appeal because the Complainant may still file a Formal Complaint if they wish to, in most circumstances.

3. Appeal of Dismissal

The Parties may appeal a decision to dismiss their Formal Complaint. All dismissal appeal requests must be filed within three (3) business days of the notification of the dismissal decision.

A dismissal may be appealed on the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) New evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the matter
- 3) 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 specific Complainant or Respondent that affected the outcome of the matter

The appeal should specify at least one of the grounds above and provide any reasons or supporting evidence for why the ground is met. Upon receipt of a written dismissal appeal request from one or more Parties, the Title IX Coordinator will share the request and supporting documentation with all other Parties and provide three (3) business days for other

Parties and the Title IX Coordinator to respond to the request. At the conclusion of the response period, the Title IX Coordinator will forward the request, as well as any response provided by the other Parties and/or the Title IX Coordinator, to the Dismissal Appeal Decision-maker for consideration.

If the appeal request does not provide information that meets the grounds in the Policy, the Dismissal Appeal Decision-maker will deny the request, and the Parties, their Advisors, and the Title IX Coordinator will be notified in writing of the denial and the rationale.

If any of the asserted grounds in the appeal satisfy the grounds described in the Policy, then the Dismissal Appeal Decision-maker will notify all Parties and their Advisors, and the Title IX Coordinator of their decision and rationale in writing. The effect will be to reinstate the Complaint.

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Dismissal Appeal Decision-maker has seven (7) business days to review and decide on the appeal, though extensions can be granted at the Title IX Coordinator's discretion, and the Parties will be notified of any extension.

Appeal decisions are deferential to the original determination, making changes only if there is a compelling justification to do so.

The Dismissal Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultations.

4. Emergency Removal/Interim Suspension of a Student

Bowie State University may emergency remove a Student accused of Title IX Sexual Harassment upon receipt of a Formal Complaint or at any time during the Formal Grievance Process. Prior to an emergency removal, Bowie State University will conduct an individualized risk assessment and may remove the Student if that assessment determines that an immediate threat to the physical health or safety of any Student or other individual justifies removal. Students accused of other forms of Discrimination, Harassment, Retaliation, or Other Prohibited Conduct (not Sex-based) are subject to interim suspension, which can be imposed for safety reasons.

When an emergency removal or interim suspension is imposed, wholly or partially, the affected Student will be notified of the action, which will include a written rationale, and the option to challenge the emergency removal or interim suspension within two (2) business days of the notification. Upon receipt of a challenge, the Title IX Coordinator will meet with the Student

(and their Advisor, if desired) as soon as reasonably possible thereafter to allow them to show cause why the removal/action should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal or interim suspension is appropriate, should be modified, or should be lifted. When this meeting is not requested within two (2) business days, objections to the emergency removal or interim suspension will be deemed waived. A Student can later request a meeting to show why they are no longer an immediate threat because conditions related to the threat have changed. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable for them to do so.

The Respondent may provide information, including expert reports, witness statements, communications, or other documentation for consideration prior to or during the meeting. When applicable, a Complainant may provide information to the Title IX Coordinator for review.

An emergency removal or interim suspension may be affirmed, modified, or lifted as a result of a requested review or as new information becomes available. The Title IX Coordinator will communicate the final decision in writing, typically within three (3) business days of the review meeting.

5. Placing Employees on Leave

When the Respondent is an Employee, or a Student-Employee, accused of misconduct in the course of their employment, existing provisions outlined in the Employee/Faculty handbook for interim action are typically applicable instead of the above emergency removal process. Procedures for unionized Employees can be found in their collective bargaining agreement.

6. Counter-Complaints

Bowie State University is obligated to ensure that the Formal Grievance Process is not abused for retaliatory purposes. Although Bowie State University permits the filing of counter-complaints, the Title IX Coordinator will use an initial assessment, described above, to assess whether the allegations in the counter-complaint are made in good faith. When counter-complaints are not made in good faith, they will not be permitted. They will be considered potentially retaliatory and may constitute a Policy violation.

Counter-complaints determined to have been reported in good faith will be processed using the Formal Grievance Process. At the Title IX Coordinator's discretion, investigation of such claims may take place after resolution of the underlying initial Formal Complaint.

7. Advisors in the Formal Grievance Process

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Formal Grievance Process, if they so choose.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the Decision-maker.

a. Who Can Serve as an Advisor

The Parties may each have an Advisor (friend, mentor, family member, attorney, or any other individual a party chooses) present with them for all meetings, interviews, and hearings within the resolution process, including intake. The Parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.⁶ Parties have the right to choose not to have an Advisor in the initial stages of the Formal Grievance Process, prior to a hearing.

The Title IX Coordinator will offer to assign a trained Advisor to any party. If the Parties choose an Advisor from Bowie State University's Resolution Process Pool, Bowie State University will have trained the Advisor and familiarized them with Bowie State University's Formal Grievance Process.

Bowie State University cannot guarantee equal advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not, or cannot afford an attorney, Bowie State University is not obligated to provide an attorney to advise that party. However, all institutionally appointed Advisors will be provided with similar training.

If the Parties choose an Advisor from outside the Resolution Process Pool, the Advisor may not have been trained by Bowie State University and may not be familiar with Bowie State University policies and procedures.

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. Parties are expected to provide the Title IX Coordinator with timely notification if they change Advisors. If a party changes Advisors, consent to share information with the previous Advisor is assumed to be terminated, and a release for the new Advisor must be submitted.

⁶ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Bowie State University may permit Parties to have more than one Advisor, or an Advisor and a support person, upon special request to the Title IX Coordinator. The decision to grant this request is at the Title IX Coordinator's sole discretion and will be granted equitably to all Parties.

If a party requests that all communication be made through their attorney Advisor instead of to the party, Bowie State University will refuse that request at the discretion of the Title IX Coordinator.

As a public entity, Bowie State University fully respects and accords the Weingarten rights of Employees, meaning that for Parties who are entitled to union representation, Bowie State University will allow the unionized Employee to have their union representative (if requested by the party) as well as an Advisor of their choice present for all Formal Grievance Process meetings and interviews. To uphold the principles of fairness, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in resolution process interviews or meetings.

b. Advisor's Role in the Formal Grievance Process

Advisors should help the Parties to prepare for each meeting or hearing and are expected to advise ethically, with integrity, and in good faith. Advisors may not provide testimony or speak on behalf of their advisee unless given specific permission to do so.

The Parties are expected to respond to questions on their own behalf throughout the Formal Grievance Process. Although the Advisor generally may not speak on behalf of their advisee, except for conducting cross-examination during a hearing, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the Parties and their Advisors should ask for breaks to allow for private consultation.

The Title IX Regulations require a form of indirect questioning during the hearing, which must be conducted by the Parties' Advisors. The Parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, Bowie State University will appoint a trained Advisor for the limited purpose of conducting any questioning of the Parties and witnesses.

c. Records Shared with Advisors

Advisors are entitled to the same opportunity as their advisee to receive copies of the Draft and Final Investigation Reports, as well as the Directly Related Evidence file.

Parties will be asked to sign releases for Bowie State University to share materials with an Advisor.

Advisors are expected to maintain the confidentiality of the records that Bowie State University shares with them. Accordingly, Advisors will be asked to sign Non-Disclosure Agreements (NDAs). Bowie State University may decline to share materials with any Advisor who has not executed the NDA. Bowie State University may restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by Bowie State University's confidentiality expectations.

d. Advisor Expectations

Bowie State University generally expects an Advisor to adjust their schedule to allow them to attend Bowie State University meetings/interviews/hearings when planned, but Bowie State University may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

Bowie State University may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

All Advisors are subject to the same Bowie State University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or appointed by Bowie State University. Advisors are expected to advise without disrupting proceedings.

e. Advisor Policy Violations

Any Advisor who oversteps their role as defined by the Policy, who shares information or evidence in a manner inconsistent with the Policy, or who refuses to comply with Bowie State University's established rules of decorum will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including Bowie State University requiring the party to use a different Advisor or providing a different Bowie State University-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

8. Resolution Options Overview

The Formal Grievance Process is Bowie State University's primary resolution approach unless all Parties and Bowie State University agree to an Informal Resolution. The process considers the Parties' preferences but is ultimately determined at the Title IX Coordinator's discretion.

Resolution proceedings are private. All persons present at any time during a resolution process are expected to maintain the privacy of the proceedings in accordance with the Policy.

There is an expectation of privacy around what Investigators share with Parties during interviews and for any materials the institution shares with the Parties during the resolution process. The Parties have discretion to share their own knowledge and evidence with others if they choose, except for information the Parties agree not to disclose as part of an Informal Resolution. Bowie State University encourages Parties to discuss any sharing of information with their Advisors before doing so.

a. Informal Resolution

To initiate Informal Resolution, a Complainant or Respondent may make such a request to the Title IX Coordinator at any time prior to a Final Determination, or the Title IX Coordinator may offer the option to the Parties. Bowie State University will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution. To engage in Informal Resolution, a Complaint must first submit a Formal Complaint.

Three approaches to Informal Resolution are detailed in this section.

- 1) **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) designed to remedy the situation. Supportive Resolution involves only the party who opts for it.
- 2) **Accepted Responsibility.** When the Respondent accepts responsibility for violating Policy and accepts the recommended sanction(s), and the Complainant(s) and Title IX Coordinator agree to the resolution terms.
- 3) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (which could include, but is not limited to, mediation, shuttle negotiation, restorative practices, facilitated dialogue, etc.), as described below.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process. Any party participating in Informal Resolution can withdraw from

the Informal Resolution process at any time and initiate or resume the Formal Grievance Process.

The Parties may agree, as a condition of engaging in Informal Resolution, on what statements made or evidence shared during the Informal Resolution process will not be considered in the Formal Grievance Process should Informal Resolution not be successful.⁷

If an investigation is already underway, the Title IX Coordinator has discretion to determine if the investigation will be paused, if it will be limited, or if it will continue during the Informal Resolution process.

Prior to engaging in Informal Resolution, Bowie State University will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of *Accepted Responsibility*) or measures that may result from participating in such a process, including information regarding any records that Bowie State University will maintain and under which circumstances they may be released.

Informal Resolution Approaches

i. Supportive Resolution

Most commonly offered once a Formal Complaint is filed (whereas supportive measures, as described in Section 9 of the Policy, are offered in response to Notice). The Title IX Coordinator will meet with the Complainant to determine reasonable supports that are designed to restore or preserve the Complainant's access to Bowie State University's Education Program and Activity. Such supports can be modified as the Complainant's needs evolve over time or circumstances change. If the Respondent has received the NOIA, the Title IX Coordinator may also provide reasonable support for the Respondent as deemed appropriate. This option is available when the Complainant does not want to engage the other resolution options, and the Title IX Coordinator does not believe there is a need to sign a Formal Complaint. At the discretion of the Title IX Coordinator, this resolution option can result in an agreement between the Complainant and Bowie State University that does not require assent from any other party, as long as it does not unduly burden any other party or function punitively with respect to them.

⁷ The Parties may not want discussions that take place within Informal Resolution to be admissible in a later Resolution Process, but essential facts must and do transfer from the informal process to subsequent resolution proceedings.

ii. Accepted Responsibility

The Respondent may accept responsibility for any or all of the alleged Policy violations at any point during the Formal Grievance Process. If the Respondent indicates an intent to accept responsibility for **all** alleged Policy violations, the ongoing process will be paused, and the Title IX Coordinator will determine whether Informal Resolution is an option.

If Informal Resolution is available, the Title IX Coordinator will determine whether all Parties and Bowie State University are able to agree on responsibility, restrictions, sanctions, restorative measures, and/or remedies. If so, the Title IX Coordinator implements the accepted Finding that the Respondent is in violation of Bowie State University Policy, implements agreed-upon restrictions and remedies, and determines any other appropriate responses in coordination with other appropriate administrator(s), as necessary.

This resolution is not subject to appeal once all Parties indicate their written agreement to all resolution terms. When the Parties cannot agree on all terms of resolution, the Formal Grievance Process will either begin or resume.

When a resolution is reached, the appropriate sanction(s) or responsive actions are promptly implemented to effectively stop the Discrimination or Harassment, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

iii. Alternative Resolution

The institution offers a variety of alternative resolution mechanisms to best meet the specific needs of the Parties and the nature of the allegations. Alternative resolution may involve agreement to pursue individual or community remedies, including targeted or broad-based educational programming or training; supported direct conversation or interaction between the Parties; indirect action by the Title IX Coordinator or other appropriate Bowie State University officials; and other forms of resolution that can be tailored to the needs of the Parties. Some alternative resolution mechanisms will result in an agreed-upon outcome, while others are resolved through dialogue. All Parties must consent to the use of an alternative resolution approach, and the Parties may, but are not required to, have direct or indirect contact during an alternative resolution process.

The Title IX Coordinator has the authority to determine whether an alternative resolution is available or successful, to facilitate a resolution that is acceptable to all Parties, and/or to accept the Parties' proposed resolution, usually through their Advisors, often including terms of confidentiality, release, and non-disparagement.

Parties do not have the authority to stipulate restrictions or obligations for individuals or groups that are not involved in the alternative resolution process. The Title IX Coordinator will determine whether additional individual or community remedies are necessary to meet the institution's compliance obligations in addition to the alternative resolution.

The Title IX Coordinator maintains records of any resolution that is reached and will provide notification to the Parties of what information is maintained. Failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., dissolution of the agreement and resumption of the Formal Grievance Process, referral to the conduct process for failure to comply, application of the enforcement terms of the agreement). Where the failure to abide by the Informal Resolution agreement terms results in a failure to remedy a Policy violation, the Title IX Coordinator must consider whether to dissolve the agreement and reinstate the Formal Grievance Process to remedy the impact as required by law. The results of Formal Complaints resolved by alternative resolution are not appealable.

If an Informal Resolution option is not available or selected, Bowie State University will initiate or continue an investigation and subsequent Formal Grievance Process to determine whether the Policy has been violated.

[Formal Grievance Process \(begins at Section 10 below\)](#)

9. Resolution Process Pool

Bowie State University relies on a pool of individuals ("the Pool") to carry out the resolution options.

[Pool Member Roles⁸](#)

Pool members are trained annually and can serve in any of the following roles at the Title IX Coordinator's discretion:

- Appropriate intake of and initial guidance pertaining to Formal Complaints
- Perform or assist with initial assessment
- Advisor to Parties
- Informal Resolution Facilitator
- Investigator
- Hearing Facilitator
- Decision-maker

⁸ External, trained third-party neutral professionals may also serve in Pool roles.

- Appeal of Dismissal Decision-maker
- Appeal Decision-maker

Pool Member Appointment

The Title IX Coordinator appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different Formal Complaints, Bowie State University can also designate permanent roles for individuals in the Pool.

10. Notice of Investigation and Allegations (NOIA)

The Title IX Coordinator will provide the Parties with written Notice of the Investigation and Allegations (the “NOIA”) upon commencement of the Formal Grievance Process. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available. For climate/culture investigations that do not have an identifiable Respondent, the NOIA will be sent to the department/office/program head for the area/program being investigated.

The NOIA will include:

- A meaningful summary of all allegations
- The names of the involved Parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies/offenses implicated
- A description of, link to, or copy of the applicable procedures
- A statement that Bowie State University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a Final Determination that the Policy has been violated
- The name(s) of the Investigator(s), along with a process to notify the Title IX Coordinator of any conflict of interest that the Investigator(s) may have in advance of the interview process
- A statement that determinations of responsibility are made at the conclusion of the process and that the Parties will be given an opportunity during the review and comment period to inspect and review all Relevant and Directly Related Evidence obtained
- A statement of the potential sanctions/responsive actions that could result
- A statement about Bowie State University’s policy on Retaliation
- Information about process confidentiality
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor

- A statement informing the Parties that Bowie State University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Formal Grievance Process
- Information about how a party may request disability accommodations or other support assistance during the Formal Grievance Process
- A link to Bowie State University's VAWA Brochure
- An instruction to preserve any evidence that is directly related to the allegations
- A statement that Parties who are members of a union are entitled to union representation throughout the process

Notification will be made in writing and may be delivered by one or more of the following methods: in person or emailed to the Parties' Bowie State University-issued email or other approved accounts. Once emailed or received in person, notice is presumptively delivered.

11. Resolution Timeline

Bowie State University will make a good faith effort to complete the Formal Grievance Process within sixty to ninety (60-90) business days, including any appeals, which the Title IX Coordinator can extend as necessary for appropriate cause. The Parties will receive regular updates on the progress of the Formal Grievance Process, as well as notification and a rationale for any extensions or delays, and an estimate of how much additional time will be needed to complete the process.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take longer, depending on the nature, extent, and complexity of the allegations, witness availability, law enforcement involvement, and other factors.

Bowie State University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to, a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of Parties and/or witnesses, and/or health conditions. Bowie State University will promptly resume its Formal Grievance Process as soon as feasible. During such a delay, Bowie State University will implement and maintain supportive measures for the Parties as deemed appropriate.

Bowie State University action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Bowie State University will make a good faith effort to complete the Formal Grievance Process as promptly as circumstances permit and will regularly communicate with the Parties to update them on the progress and timing of the process.

12. Ensuring Impartiality

No individual materially involved in the administration of the Formal Grievance Process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may have or demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s), Decision-maker(s), and Appeal Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The Parties may raise a concern regarding bias or conflict of interest at any time during the Formal Grievance Process, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member, or other trained individual, will be assigned, and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the Director of the Office of Equity Compliance.

The Formal Grievance Process involves an objective evaluation of all Relevant Evidence obtained, including evidence that supports that the Respondent violated the Policy and evidence that supports that the Respondent did not violate the Policy. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness. All Parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to receive a written Investigation Report that accurately summarizes this evidence.

13. Witness Role and Participation in the Investigation

Witnesses who are Bowie State University Employees are strongly encouraged to cooperate with and participate in Bowie State University's investigation and Formal Grievance Process. Student witnesses and witnesses from outside the Bowie State University community are encouraged to cooperate with Bowie State University investigations and to share what they know about a Formal Complaint.

Interviews may be conducted in person, via online video platforms (e.g., Zoom, Microsoft Teams, FaceTime, WebEx), or, in limited circumstances, by telephone. Bowie State University will take appropriate steps to ensure the security/privacy of remote interviews.

Parties and witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

14. Interview Recording

It is standard practice for Investigators to create a record of all interviews pertaining to the Formal Grievance Process, by a recording, a transcript, or a written summary. The Parties may review copies of their own interviews upon request. No unauthorized audio or video recording of any kind is permitted during investigation meetings.

All interviews are recorded, and all involved persons should be made aware of the audio and/or video recording. The recording and/or transcript of those meetings will be provided to the Parties for their review, after which the Parties may suggest additional questions to be asked of another party or witness or additional witnesses. Those subsequent meetings or interviews are also recorded and/or transcribed.

15. Evidentiary Considerations

The Investigator(s) and the Decision-maker(s) will only consider Relevant or Directly Related Evidence.

Neither the investigation nor the hearing will consider:

- 1) Questions or evidence about the Complainant's sexual predisposition⁹
- 2) Questions or evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct, or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent¹⁰
- 3) Questions or evidence about a party or witness's records that are made or maintained by a physician, psychologist, or psychiatrist, unless the party or witness provides voluntary, written consent for the records to be considered

Within the boundaries stated above, the investigation and the hearing can consider character evidence, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may not be considered unless there is an allegation of a pattern of misconduct. Such information may also be considered in determining an appropriate sanction upon a determination of responsibility. Barring a pattern

⁹ Bowie State University defines "predisposition" in alignment with its commonly understood and dictionary definition of being inclined toward a thing, action, or person. Predisposition does not encompass an aversion, or being disinclined to a thing, action, or person.

¹⁰ Bowie State University defines "prior sexual behavior" to include only sexual actions taken by or involving a Complainant prior to the reported incident(s), not the absence of such actions.

allegation, this information is only considered at the sanction stage of the process and is not shared until then.

16. Investigation

All investigations are thorough, reliable, impartial, prompt, and fair. They involve interviewing all available, relevant Parties and witnesses, obtaining Relevant Evidence, and identifying sources of expert information, as necessary.

After an interview, Parties and witnesses will be asked to verify the accuracy of the recording, transcript, or summary of their interview. They may submit changes, edits, or clarifications. If the Parties or witnesses do not respond within the time period designated for verification, objections to the accuracy of the recording, transcript, or summary will be deemed to have been waived, and no changes will be permitted.

Bowie State University may consolidate complaints against more than one Respondent, or by more than one Complainant against one or more Respondent(s), when the allegations arise from the same facts or circumstances or implicate a pattern, collusion, and/or other shared or similar actions.

Investigations involve the following:

- Determining the names of and contacting all involved Parties and potential witnesses to participate in an investigation interview
- Identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the Parties and witnesses
- Providing written notification of the date, time, and location of all investigation meetings, including the expected participants and purpose
- Conducting any necessary follow-up interviews with Parties or witnesses
- Providing the Parties and witnesses an opportunity to verify the accuracy of either a summary or transcript of their interview(s)
- Soliciting the names of suggested witnesses and questions each party wishes to have asked of another party or witness
- Writing a Draft Investigation Report that gathers, assesses, and synthesizes the evidence, accurately summarizes the investigation and party and witness interviews, and provides all Relevant Evidence
- Compiling a Directly Related Evidence File
- Providing the Parties and their respective Advisors an electronic or hard copy of the Draft Investigation Report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which Bowie State University does not intend to

rely in reaching a determination, for a ten (10)-business-day review and comment period so that each party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) days.

- Incorporating any new, Relevant Evidence and information obtained through the Parties' review of the Draft Investigation Report and any follow-up meetings into the Final Investigation Report
- Responding in writing (typically within the Final Investigation Report) to the relevant elements of the Parties' responses to the Draft Investigation Report
- Sharing the Final Investigation Report with the Title IX Coordinator and/or legal counsel for their review and feedback
- Providing the Title IX Coordinator with the Final Investigation Report and the Directly Related Evidence File

17. Referral for Hearing

Provided that the Formal Complaint is not resolved through Informal Resolution, once the Final Investigation Report is shared with the Parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be held less than ten (10) business days from the conclusion of the investigation – when the Final Investigation Report is transmitted to the Parties and the Decision-maker – unless all Parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker from the Pool and provide a copy of the Final Investigation Report and the file of Directly Related Evidence.

18. Hearing Decision-maker

The Decision-maker will not have had any previous involvement with the Formal Complaint. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process if a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and, therefore, may not serve as Decision-makers. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker in the matter, but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Title IX Coordinator.

19. Live Hearing Requirements

The following provisions apply to a live hearing:

- **Hearing Venue Options and Recordings.** The live hearing may occur in person or via video technology. The Decision-maker and Parties must be able to simultaneously see and hear a party or witness while that person is speaking. Both options are considered fair and equitable. Alternative arrangements may also be made at the Title IX Coordinator's discretion.
 - The Parties may make a request to the Title IX Coordinator that the hearing be held in person or via video technology, but they must do so at least three (3) business days prior to the hearing. The Title IX Coordinator retains discretion to determine whether the hearing will occur in person or via video technology.
 - All hearings will be recorded, and Parties may request a copy of the recording from the Title IX Coordinator following the live hearing.
 - No unauthorized recordings are permitted.
- **Scheduling.** Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to the Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term, including during the summer, as needed, to meet Bowie State University's resolution timeline and ensure a prompt resolution. Employees, including Parties and witnesses, who do not have 12-month contracts are still expected to participate in Formal Grievance Processes that occur during months between contracts.
- **Hearing Participants.** Persons who may be present for a hearing include the Decision-maker, hearing facilitator, Investigator(s), the Parties and their Advisors, anyone providing authorized accommodations, interpretation, and/or assistive services, and anyone else deemed necessary by the Decision-maker. Witnesses are present only during their portion of the testimony.
- **Advisors.** The Parties may have the assistance of an Advisor of their choice at the hearing, or they can request that Bowie State University appoint a trained Advisor for them. Appointed Advisors are not attorneys. If a party wishes to have an attorney as their Advisor, they must locate and pay for that attorney themselves or engage the no-cost attorneys offered through the Maryland Higher Education Commission (MHEC).
 - During the pre-hearing meeting and live hearing, Parties may only be accompanied by their Advisor. No other persons (e.g., additional support persons, advisors, friends, family) may accompany, attend, or listen in on the hearing unless explicitly authorized by the Title IX Coordinator, with each party being provided the same opportunity.
 - Parties and Advisors are permitted to have their phones and a laptop or tablet, but these should only be used during the hearing in a manner consistent with the Policy.
 - During the hearing, all questions that a party wishes to ask must be posed by the Advisor, not the Parties.

- If the party does not have an Advisor, the Title IX Coordinator will provide the party with an Advisor for the purpose of Advisor-conducted questioning.
- **Impact Statements.** Each party may submit an impact and/or mitigation statement within 48 hours post-hearing to the Title IX Coordinator that the Decision-maker will review during any sanction determination.
 - Upon receipt of an impact and/or mitigation statement, the Title IX Coordinator will review the impact/mitigation statement to determine whether any immediate needs exist.
 - The Title IX Coordinator will only provide the impact statements to the Decision-maker if the Decision-maker determines that the Policy has been violated. When the Title IX Coordinator shares the impact statements with the Decision-maker, they will also be shared with the Parties.
- **Disability Accommodations and Other Assistance.** Parties should contact the Title IX Coordinator at least five (5) business days prior to the hearing to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, if possible.
- **Conflicts of Interest or Bias.** The Decision-maker must not have a bias for or against Complainants or Respondents generally or the individual Complainant or Respondent involved in the Formal Complaint.
 - The Decision-maker must recuse themselves if such bias or conflict of interest exists.
 - If the Decision-maker believes there is a possible conflict of interest or bias, they will consult with the Title IX Coordinator about possible recusal or removal.
 - The Parties may raise challenges that the Decision-maker is biased or has a conflict of interest. The Parties must raise challenges with the Title IX Coordinator within two (2) business days of receiving the hearing notice.
 - The Title IX Coordinator will only remove and replace a Decision-maker in situations of demonstrated bias or conflicts of interest. Perceptions of bias or conflict are not sufficient to cause removal.
 - If a Decision-maker recuses themselves as the result of a conflict of interest or bias, or is removed, the Title IX Coordinator will promptly appoint a new Decision-maker who does not have a conflict of interest or bias and notify the Parties accordingly.
- **Evidence Provided to Decision-maker and Parties.**
 - The Decision-maker will be provided electronic copies of the Final Investigation Report and all relevant but not impermissible evidence, including the names of all Parties, witnesses, and Advisors, at least ten (10) business days in advance of the hearing.

- The Parties will be provided with electronic copies of all the materials provided to the Decision-maker as part of the hearing notice, unless those materials have already been provided.¹¹

20. Hearing Notice

The Title IX Coordinator will send the Parties a notice of hearing letter no less than ten (10) business days prior to the hearing. Once emailed or received in person, notice is presumptively delivered. The notice includes:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result
- The time, date, and location of the hearing
- A description of any technology that will be used to facilitate the hearing
- Relevant information regarding hearing logistics, pre-hearing meetings, the Final Investigation Report, the Parties and witnesses participating in the hearing, the identity of the Decision-maker, details related to questioning, the role of Advisors, impact/mitigation statements, and how to request disability accommodations or other assistance

21. Witness Participation

Witnesses are encouraged to participate in, and make themselves reasonably available for, the hearing. They may participate in-person or via video technology that allows the Decision-maker and the Parties to see and hear the witness while that person is speaking. Witnesses are not permitted to be accompanied by an Advisor without the Title IX Coordinator's express permission.

The Title IX Coordinator will notify all witnesses of their requested participation in the hearing at least five (5) business days prior to the hearing. Witnesses will be present for the hearing only during their testimony.

If any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Title IX Coordinator may reschedule the hearing.

¹¹ Hard-copy materials may be provided upon request to the Title IX Coordinator. The Final Investigation Report and Relevant Evidence may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s), unless:

- All Parties and the Decision-maker assent to the new witness's participation in the hearing without remanding the Formal Complaint back to the Investigator,
- The Decision-maker deems the evidence presented by the new witness to be relevant and not information already established in the record, and
- The witness's late involvement was not the result of bad faith by the witness, the Parties, or others.

If the above criteria are not met, but the witness's evidence is deemed relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the relevant portions of the new witness's statements, if such statements are submitted
- Remand the Formal Complaint back to the Investigator for further investigation or verification
- Allow the Parties to review and comment on the testimony of the new witness¹²

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing in the absence of the new witness's participation.

22. Pre-Hearing Meetings

The Decision-maker will offer to convene pre-hearing meeting(s) with the Parties and their Advisors to familiarize them with the hearing process and invite them to submit the questions or topics they wish to ask or discuss at the hearing. This allows the Decision-maker to consider their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration of a Decision-maker's pre-hearing decision based on any new information or testimony offered at the hearing. The Decision-maker will consider arguments that evidence identified as relevant in the Final Investigation Report is, in fact, not relevant. Similarly, evidence identified by the Investigator(s) as directly related but not relevant may be argued to be relevant. The Decision-maker will document and share their rationale for any evidence or question exclusion or inclusion, if any, at a pre-hearing meeting with each party.

¹² 34 C.F.R. § 668.46(k)(3)(B)(3) requires "timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings."

The Decision-maker will work with the Parties to finalize a witness list for the hearing, and the Title IX Coordinator will notify any witnesses of the hearing's logistics. The Decision-maker, **only** with the agreement of all Parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the Final Investigation Report or during the hearing, and their presence is not essential to assess their credibility.

Pre-hearing meeting(s) will not be recorded. The pre-hearing meetings will typically be conducted as separate meetings with each party/Advisor, and can be done remotely or as a written communication exchange. The Decision-maker will work with the Parties to establish the format and timing of the meetings and will circulate a summary of any rulings made to ensure all Parties and Advisors are aware.

23. Hearing Procedures

Evidentiary Considerations

The Parties must provide all evidence to the Investigator(s) prior to completion of the Final Investigation Report. Evidence offered after that time will be evaluated by the Decision-maker for relevance. If deemed relevant, the Parties and Decision-maker must agree to admit it into the record. If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing in the absence of the new evidence.

The new Relevant Evidence will be admitted to the record if:

- All Parties and the Decision-maker assent to the new evidence being included in the hearing without remanding the Formal Complaint back to the Investigator,
- The evidence is not duplicative of evidence already in the record, and
- The new evidence was either not reasonably available prior to the conclusion of the Final Investigation Report, or the failure to provide it in a timely manner was not the result of bad faith by the Parties, witnesses, or others.

If the above criteria are not met, but the evidence is deemed materially relevant and not duplicative, the Decision-maker may, at their discretion, engage in any of the following actions:

- Delay the hearing
- Provide the Parties with at least five (5) business days to review the Relevant Evidence

- Remand the Formal Complaint back to the Investigator for further investigation or analysis
- Allow the Parties time to review and comment on the new evidence

If the evidence is deemed not relevant, the Decision-maker may proceed with the hearing without allowing the new evidence.

Collateral Misconduct

The Decision-maker has the authority to hear and make determinations on all allegations of Discrimination, Harassment, Retaliation, and Other Prohibited Conduct under the Policy and may also hear and make determinations on any additional alleged collateral misconduct that occurred in concert with the Discrimination, Harassment, Retaliation, or Other Prohibited Conduct, even though those collateral allegations may not specifically fall within the Policy.

Joint Hearings

In Complaints involving more than one Respondent and/or involving more than one Complainant accusing the same person of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or Formal Complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each Formal Complaint with respect to each alleged policy violation.

Introductions and Hearing Procedure Explanation

The Decision-maker will:

- Explain the hearing procedures
- Introduce the participants
- Answer any procedural questions prior to and as they arise throughout the hearing

Investigator Presentation of Final Investigation Report

The Investigator(s) will present a summary of the Final Investigation Report, including a review of the facts that are contested and those that are not. The Investigator may be questioned first by the Decision-maker and then by the Parties through their Advisors. The Investigator may attend the duration of the hearing or be excused after their testimony at the Decision-maker's discretion.

Testimony and Questioning

The Parties and witnesses may provide relevant information in turn, beginning with the Complainant's opening statement, then the Respondent's, and then questioning in the order determined by the Decision-maker. The Decision-maker will facilitate questioning of the Parties and witnesses first by the Decision-maker and then by the Parties through their Advisors.

All questions are subject to the Decision-maker's relevance determination. The Advisor will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted). The proceeding will pause to allow the Decision-maker to consider the question (and state it if it has not already been stated aloud), and the Decision-maker will determine whether the question will be permitted, disallowed, or rephrased. The Decision-maker will explain any decision to exclude a question as not relevant or to reframe it for relevance.

The Decision-maker will limit or disallow questions they deem not appropriate on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), seek or pertain to impermissible evidence, or are abusive and has the final say on all questions and relevance determinations. The Decision-maker may consult with legal counsel on any admissibility questions.

If the Parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not an issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for Investigator bias.

Refusal to Submit to Questioning and Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-maker can only rely on the available Relevant Evidence in making a Final Determination. The Decision-maker may

not draw any inference **solely** from a party's or witness's absence from the hearing or refusal to answer any or all questions. Typically, after brief opening statements, the order of questioning will be questions from the Decision-maker, questions from the party's own Advisor, then questions from the other Parties' Advisors. The same order will be used for questioning of witnesses, who do not typically make opening statements. The Parties then make brief closing statements, and then the hearing transitions into a closed session for deliberation.

An Advisor may not be called as a witness at a hearing to testify to what their advisee has told them during their role as an Advisor unless the party being advised consents to that information being shared.

Hearing Recordings

Bowie State University records hearings (but not deliberations) for purposes of review in the event of an appeal. No unauthorized audio or video recording of any kind is permitted during the hearing.

The Decision-maker, the Parties, their Advisors, Appeal Decision-makers, and other appropriate Bowie State University officials will be permitted to review the recording or review a transcript of the recording upon request to the Title IX Coordinator. No unauthorized disclosure, including sharing, copying, or distribution of the recording or transcript, is permitted.

24. Deliberation and Determination

After closing statements from the Parties, the Decision-maker will deliberate in closed session to determine whether the Respondent is responsible for the alleged Policy violation(s) based on the standard of evidence. If a panel is used, a simple majority vote is required to determine the Finding. Deliberations are not recorded.

When there is a Finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Title IX Coordinator will ensure that each of the Parties has an opportunity to review any submitted impact and/or mitigation statement(s) once they are submitted.

The Decision-maker will also review any pertinent conduct history and will determine the appropriate sanction(s) in consultation with other appropriate administrators, if necessary.

The Decision-maker will then prepare a written statement detailing all Findings and Final Determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationales explaining the sanction(s) and will deliver the statement to the Title IX Coordinator.

This statement must be submitted to the Title IX Coordinator within seven (7) business days of the end of deliberations unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the Parties.

25. Notice of Outcome

The Title IX Coordinator will provide the Parties with a written outcome notification within ten (10) business days of the conclusion of the Formal Grievance Process. The outcome notification will specify the Finding for each alleged Policy violation, any sanction(s) that may result, which Bowie State University is permitted to share pursuant to federal or state law, and a detailed rationale, written by the Decision-maker, supporting the Findings to the extent Bowie State University is permitted to share under federal or state law.

The notification will also detail the Parties' equal rights to appeal, the grounds for appeal, the steps to request an appeal, and when the determination is considered final if no party appeals.

The Title IX Coordinator will provide the Parties with the outcome notification simultaneously, or without a significant time delay between notifications. The written outcome notification may be delivered by one or more of the following methods: in person or emailed to the Parties' Bowie State University-issued or other approved email account. Once emailed or received in person, the outcome notification is presumptively delivered.

26. Rights of the Parties

- Right to be treated with dignity, respect, and sensitivity by university officials throughout the complaint process
- Right to the presence of an advisor – which can be an attorney, throughout the Resolution Process
- Right to a presumption of innocence until determined responsible at the end of the disciplinary process
- Right to be advised of the alleged charges
- Right to a fair and impartial investigation
- Right to a prompt and equitable disciplinary resolution process
- Right to be heard

- Right to participate in disciplinary process, which includes the right to present testimony, questions to be posed to the other party, and other evidence. It also includes the right to access evidence obtained during the investigation by the University.
- Right to review and respond to written reports and findings
- Limited right to appeal as outlined by the appeal process in this document

27. Sanctions

Factors the Decision-maker may consider when determining sanctions and responsive actions include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need for sanctions/responsive actions to prevent the future recurrence of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct
- The need to remedy the effects of Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct on the Complainant and the community
- The impact on the Parties
- The Respondent's acknowledgment of responsibility or contrition
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible once a Determination is final, either upon the outcome of any appeal or the expiration of the window to appeal, without an appeal being requested.

The sanctions described in the Procedures are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

Student Sanctions¹³

The following are the common sanctions that may be imposed upon Students singly or in combination:

- *Reprimand*: A formal statement that the conduct was unacceptable and a warning that further violation of any Bowie State University policy, procedure, or directive will result in more severe sanctions/responsive actions

¹³ Bowie State University policies on transcript notation will apply to these proceedings.

- *Required Counseling:* A mandate to meet with and engage in either Bowie State University-sponsored or external counseling to better comprehend the misconduct and its effects
- *Restrictions:* A Student may be restricted in their activities, including, but not limited to, being restricted from locations, programs, participation in certain activities or extracurriculars, study abroad, or holding leadership roles in student organizations
- *Probation:* An official sanction for violation of Bowie State University policy, providing for more severe disciplinary sanctions if the Student is found in violation of any Bowie State University policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Separation from Bowie State University, or one or more of its facilities, for a defined period of time, typically not to exceed two (2) years, after which the Student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension, on successfully applying for readmission, or upon a general condition that the Student is eligible to return if Bowie State University determines it is appropriate to re-enroll/readmit the Student. The Student is typically required to vacate Bowie State University property within 24 hours of notification of the action, though this deadline may be extended at the discretion of the Title IX Coordinator or other appropriate official. During a Bowie State University-wide suspension, the Student is banned from Bowie State University property, functions, events, and activities unless they receive prior written approval from an appropriate Bowie State University official. This sanction may be enforced with a trespass action, as necessary. This sanction may be noted as a Disciplinary Suspension on the Student's official academic transcript, per Bowie State University policy and/or state law.
- *Expulsion:* Permanent separation from Bowie State University. The Student is banned from Bowie State University property, and the Student's presence at any Bowie State University-sponsored activity or event is prohibited. This action may be enforced with a trespass action, as necessary. This sanction may be noted as Disciplinary Expulsion on the Student's official academic transcript, per Bowie State University policy and/or state law.
- *Withholding Diploma:* Bowie State University may withhold a Student's diploma for a specified period of time and/or deny a Student participation in commencement activities as a sanction if the Student is found responsible for violating the Policy
- *Revocation of Degree:* While very rarely exercised, Bowie State University reserves the right to revoke a degree previously awarded by Bowie State University for fraud, misrepresentation, and/or other violation of Bowie State University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a Student prior to graduation. Revocation can occur when the offense would have otherwise resulted in expulsion if the Respondent were still a student.

Delay of degree certification is applicable for any situation that would have resulted in suspension of the Respondent if the Respondent were still a student, and the degree will only be conferred once the degree suspension period is completed. The degree suspension period is usually implemented for the same length of time for which a sanction of suspension would have been imposed if the Respondent were still enrolled.

- *Other Actions:* In addition to, or in place of, the above sanctions, Bowie State University may assign any other sanctions as deemed appropriate

Student Organization Sanctions¹⁴

The following are the common sanctions that may be imposed upon student group organizations singly or in combination:

- *Warning:* A formal statement that the conduct was unacceptable and a warning that further violation of any Bowie State University policy, procedure, or directive will result in more severe sanctions/responsive actions
- *Probation:* An official sanction for violation of Bowie State University policy, providing for more severe disciplinary sanctions if the group or organization is found in violation of any Bowie State University policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social and event privileges, denial of Bowie State University funds, ineligibility for honors and awards, restrictions on new member recruitment, no-contact orders, and/or other measures deemed appropriate.
- *Suspension:* Termination of student group or organization recognition and/or Bowie State University support for a defined period of time not to exceed two (2) years and/or until specific criteria are met. During the suspension period, a student group or organization may not conduct any formal or informal business or participate in Bowie State University-related activities, whether they occur on or off campus. Re-recognition is possible but not guaranteed and will only be considered after the end of the suspension period and based on meeting all re-recognition criteria and obtaining clearance from Bowie State University.
- *Expulsion:* Permanent termination of student group or organization recognition and revocation of the privilege to congregate and conduct business on campus as an organization for any reason

¹⁴ Subject to Bowie State University's Student/Organizational Code of Conduct. Organizational sanctions are included here despite the fact that organizations cannot be charged as Respondents under Title IX. However, nothing would prevent Bowie State University from holding a student organization accountable for Policy violations using the Resolution Processes herein, as long as it was clearly noted that Title IX was not applicable. Often, individuals will be charged for their role in organizational misconduct under Title IX, and the organization would be charged with collateral misconduct to the individual charges, resolved in the same process as those charges.

- *Loss of Privileges:* Restricted from accessing specific Bowie State University privileges for a specified period of time
- *Other Actions:* In addition to, or in place of, the above sanctions, Bowie State University may assign any other sanctions as deemed appropriate

Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an Employee who has engaged in Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct include:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Shift or schedule adjustments*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to a New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*
- *Other Actions:* In addition to, or in place of, the above sanctions/responsive actions, Bowie State University may assign any other responsive actions as deemed appropriate

28. Withdrawal or Resignation Before Complaint Resolution

Students

Should a Respondent decide not to participate in the Formal Grievance Process, the process proceeds, in the absence of their participation, to a reasonable resolution. If a Student Respondent withdraws from Bowie State University, the Formal Grievance Process typically ends with a dismissal, as Bowie State University has lost primary disciplinary jurisdiction over the withdrawn Student. However, Bowie State University may continue the Formal Grievance Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, Bowie State University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When a Student withdraws or takes a leave of absence while the process is pending, the Student may not return to Bowie State University in any capacity until the Formal Complaint is resolved and any sanctions imposed are satisfied. If the Student indicates they will not return, the Title IX Coordinator has discretion to dismiss the Formal Complaint and bar the Student from returning. The Registrar, Office of Admissions, and HR may be notified accordingly.

If the Student Respondent takes a leave of absence for a specified period of time (e.g., one semester or term), the Formal Grievance Process may continue remotely. If found in violation, that Student is not permitted to return to Bowie State University unless and until all sanctions, if any, have been satisfied.

Employees

Should an Employee Respondent decide not to participate in the Formal Grievance Process, the process proceeds, in the absence of their participation, to a reasonable resolution. If an Employee Respondent leaves their employment with Bowie State University with unresolved allegations pending, the Formal Grievance Process typically ends with dismissal, as Bowie State University has lost primary disciplinary jurisdiction over the former Employee. However, Bowie State University may continue the Formal Grievance Process when, at the discretion of the Title IX Coordinator, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

Regardless of whether the Formal Complaint is dismissed or pursued to completion of the Formal Grievance Process, Bowie State University will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct.

When an Employee resigns and the Formal Complaint is dismissed, the Employee may not return to Bowie State University in any capacity. The Registrar, Office of Admissions, and HR will be notified accordingly. A note will be placed in the Employee's file that they resigned with allegations pending and are not eligible for academic admission or rehire with Bowie State University. The records retained by the Title IX Coordinator will reflect that status.

29. Appeal of the Final Determination

The Title IX Coordinator will designate an Appeal Decision-maker from the Pool, or other trained internal or external individuals, to hear the appeal. No Appeal Decision-maker will have been previously involved in the Formal Grievance Process for the Formal Complaint. If a panel is used, the Title IX Coordinator will designate a voting chair.

Appeal Grounds

Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter
- 2) There is new evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter
- 3) 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 specific Complainant or Respondent that affected the outcome of the matter
- 4) The sanctions fall outside the range of sanctions designated for this offense, considering the Respondent's cumulative conduct/disciplinary record (applicable to suspension, expulsion, or termination-level offenses only)

Appeal Request

Any party may submit a written appeal request to the Title IX Coordinator within five (5) business days of the delivery of the notice of outcome.

The appeal request will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the appeal grounds (a Review for Standing). This is not a review of the merits of the appeal, but solely a determination as to whether the request could reasonably be construed to meet the grounds and is timely filed.

If the appeal request does not provide information that meets the grounds in the Procedures, the request will be denied by the Appeal Decision-maker, and the Parties and their Advisors will be simultaneously notified in writing of the denial and the rationale.

If any of the information in the appeal request meets the grounds in the Procedures, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker.

All other Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the Decision-maker will be provided a copy of the appeal request with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. The Appeal Decision-maker will forward all responses, if any, to all Parties for review and comment.

The non-appealing party (if any) may also choose to appeal at this time. If so, that appeal request will be reviewed by the Appeal Decision-maker to determine if it meets the grounds in the Procedures and will either be approved or denied. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, and the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses, if any, within five (5) business days. Any such responses will be circulated for review and comment by all Parties. If denied, the Parties and their Advisors will be notified in writing.

No party may submit any new appeal request after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved appeal grounds, and the subsequent responses will be shared with the Appeal Decision-maker, who will promptly render a decision.

Appeal Determination Process

In most circumstances, appeals are confined to a review of the written documentation or record of the original determination and pertinent documentation regarding the specific appeal grounds. The Appeal Decision-maker will deliberate as soon as is practicable and discuss the merits of the appeal.

Appeal decisions are to be deferential to the original determination, making changes to the Finding/Final Determination only when there is a clear error, and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so. All decisions are made by majority vote and apply the preponderance of the evidence standard of evidence.

An appeal is not an opportunity for the Appeal Decision-maker to substitute their judgment for that of the original Decision-maker merely because they disagree with the Finding and/or sanction(s).

The Appeal Decision-maker may consult with the Title IX Coordinator and/or legal counsel on questions of procedure or rationale, for clarification, if needed. The Title IX Coordinator will maintain documentation of all such consultations.

Appeal Outcome

An appeal may be granted or denied. Appeals that are granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-maker with corrective instructions for reconsideration. In rare circumstances where an error cannot be cured by the original Investigator(s) and/or Decision-maker or the Title IX Coordinator (as in cases of bias), the Appeal Decision-maker may order a new investigation and/or a new hearing with new Pool members serving in the Investigator and Decision-maker roles.

A notice of appeal outcome letter will be sent to all Parties simultaneously, or without significant time delay between notifications. The appeal outcome letter will specify the Finding on each appeal ground, any specific instructions for remand or reconsideration, all sanction(s) that may result, which Bowie State University is permitted to share according to federal or state law, and the rationale supporting the essential Findings to the extent Bowie State University is permitted to share under federal or state law.

Written notification may be delivered by one or more of the following methods: in person or emailed to the Parties' Bowie State University-issued email or other approved account. Once emailed or received in person, the appeal outcome letter will be presumptively delivered.

Once an appeal is decided, the outcome is final and constitutes the Final Determination; further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new determination). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new Finding or sanction, that Finding or sanction can be appealed one final time on the grounds listed above and in accordance with the Procedures.

If a remand results in a new Finding or sanction that is different from the original Finding or sanction, that new Finding or sanction can be appealed, once, on any of the available appeal grounds.

Sanction Status During the Appeal

Any sanctions imposed as a result of the Final Determination are stayed (i.e., not implemented) during the appeal process, and supportive measures may be maintained or reinstated until the appeal determination is made.

If any of the sanctions are to be implemented immediately post-determination, but pre-appeal, then the emergency removal and interim suspension procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within two (2) business days of implementation.

30. Long-Term Remedies/Other Actions

Following the conclusion of the Formal Grievance Process, and in addition to any sanctions implemented or Informal Resolution terms, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the Parties and/or the Bowie State University community that are intended to stop the Discrimination, Harassment, Retaliation, and/or Other Prohibited Conduct, remedy the effects, and prevent recurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Course and registration adjustments, such as retroactive withdrawals
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for Employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training

- Provision of transportation assistance
- Implementation of long-term contact limitations between the Parties
- Implementation of adjustments to academic deadlines, course schedules, etc.>>

At the Title IX Coordinator's discretion, the Parties may be provided certain long-term support or measures even if no Policy violation is found.

When no Policy violation is found, the Title IX Coordinator will address any remedies Bowie State University owes the Respondent to ensure no effective denial of educational access.

Bowie State University will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair Bowie State University's ability to provide these services.

31. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, corrective actions, and/or Informal Resolution terms within the timeframe specified by the final Decision-maker, including the Appeal Decision-maker, or the Informal Resolution agreement.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from Bowie State University.

Supervisors are expected to enforce completion of sanctions/responsive actions for their Employees.

A suspension imposed for non-compliance with sanctions will only be lifted when compliance is achieved to the Title IX Coordinator's satisfaction.

32. Recordkeeping

For a period of at least seven (7) years following the conclusion of the Formal Grievance Process, Bowie State University will maintain records of:

- 1) Each Discrimination, Harassment, Retaliation, and Other Prohibited Conduct Formal Grievance Process, including any Final Determination regarding responsibility or appeal, and any audio or audiovisual recording or transcript required under federal regulation
- 2) Any disciplinary sanctions imposed on the Respondent

- 3) Any supportive measures provided to the Parties and any remedies provided to the Complainant or the community designed to restore or preserve equal access to Bowie State University's Education Program or Activity
- 4) Any appeal and the result therefrom
- 5) Any Informal Resolution and the result thereof
- 6) All materials used to train the Title IX Coordinator, Title IX Coordinator and designees, Investigators, Decision-makers, Appeal Decision-makers, Informal Resolution Facilitators, and any person who is responsible for implementing Bowie State University's resolution processes. Bowie State University will make these training materials publicly available on Bowie State University's website
- 7) Any other actions taken in response to a report or Formal Complaint, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent
 - b. Any measures designed to restore or preserve equal access to Bowie State University's Education Program or Activity

Bowie State University will also maintain any and all records in accordance with federal and state laws.

33. Disability Accommodations

Bowie State University is committed to providing reasonable accommodations and support to qualified Students, Employees, or others with disabilities to ensure equal access to the Bowie State University's resolution processes.

Anyone needing such accommodations or support should contact the Title IX Coordinator, who will work with Disability Support Services or another qualified office, as appropriate, to review the request and, in consultation with the person requesting the accommodation, determine which accommodations are appropriate and necessary for full process participation.

34. Other Support

Bowie State University will address other reasonable requests for support for the Parties and witnesses, including:

- Language services/Interpreters
- Access and training regarding the use of technology throughout the resolution process
- Other support as deemed reasonable and necessary to facilitate participation in a resolution process