



# **Title IX Sex-Based Harassment & Discrimination Procedures**

Approved August 1, 2024

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Reed is committed to complying with state and federal law. The following policy and procedures are intended to comply with the 2024 Title IX regulations. In the event that the 2024 policy and procedures cannot take effect due to Court order, Reed will revert to and enforce prior versions of its Title IX and DHSM policies.

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The Title IX Sex-Based Harassment & Discrimination Procedures (also referred to herein as the Title IX Procedures) apply to Complaints of sex-based harassment and discrimination that meet the definitional and jurisdictional elements established by the [Title IX Sex-Based Harassment & Discrimination Policy](#) (also referred to herein as the Title IX Policy or Policy).

The Title IX Procedures may also be used to address allegations of other College policy violations by a Respondent arising from a sex-based harassment and/or discrimination grievance process or occurring in conjunction with such allegations.

For more information about Title IX, including Title IX Coordinator contact information and reporting resources, see the [Title IX webpage](#).

## A. Definitions

The following definitions apply where the defined terms are used in these procedures:

**Appeal Decisionmaker:** The person or panel who accepts or rejects a submitted appeal request, makes an outcome determination, and directs corrective action, accordingly.

**Complainant:** A student or employee who is alleged to be the victim of conduct prohibited by the Title IX Policy; or any other individual who is alleged to be the victim of conduct prohibited by the Title IX Policy and who was participating or attempting to participate in the College's education program or activity when the alleged behavior occurred.

**Complaint:** Oral or written communication to the College that can be objectively understood as a request for the College to investigate and make a determination about alleged conduct prohibited by the Title IX Policy. This request will initiate the College's Title IX Procedures.

**Education Program or Activity:** Locations, events, programs, activities, or circumstances over which the College exercises substantial control, including over the Respondent. Includes any building owned or controlled by a student organization that is officially recognized by the College.

**Formal Resolution:** A method of formal resolution designated by the College, to address conduct that meets the definitional and jurisdictional elements of the Title IX Policy.

**Informal Resolution:** A voluntary process for resolving an alleged violation of the Title IX Policy without formal proceedings or a full investigation. A facilitator is assigned to work with both Parties to come to a resolution agreement. This process may be available prior to, or in place of, a Formal Resolution process.

**Parties:** The Complainant(s) and Respondent(s) to a Complaint, collectively.

**Policy Decisionmaker:** The person or panel who hears evidence, determines relevance, and makes the final determination of whether a policy has been violated.

**Respondent:** A person who has been alleged to have violated the Title IX Policy.

**Response Hearings:** Separate meetings convened by a Policy Decisionmaker with individual Parties and witnesses, for the purpose of asking questions generated by the Policy Decisionmaker and questions suggested by the Parties, and for assessing credibility of the Parties and witnesses.

**Sanction Decisionmaker:** The person or panel who makes the final determination of assigned sanctions.

**Supportive Measures:** Individualized services that are appropriate, reasonably available, free of charge, not unreasonably burdensome to a Complainant or Respondent, and not for punitive or disciplinary reasons, designed to restore or preserve access to the College's education program or activities, protect safety and the educational environment, or provide support during grievance processes.

## **B. Grievance procedure Rights & Responsibilities**

Throughout the course of the Title IX Procedures, Complainants and Respondents can expect the following.

**B.1.** A prompt and equitable response to reports, typically within two business days;

**B.2.** To receive Supportive Measures;

**B.3.** Information about how to access confidential resources and other forms of support;

**B.4.** Written notice of the alleged prohibited conduct, potential Policy violations, and details about the grievance process;

**B.5.** The opportunity to be accompanied by up to two Advisors of their choice in all meetings and proceedings related to a report and/or Complaint;

**B.6.** An impartial procedure conducted by individuals free from conflicts of interest and bias;

**B.7.** A procedure that takes reasonable steps to protect the privacy of Parties and witnesses;

**B.8.** A procedure that includes the presumption that the Respondent is not responsible for a Policy violation unless and until a determination regarding responsibility is made at the conclusion of the process;

**B.9.** A procedure that includes the objective evaluation of relevant and not otherwise impermissible evidence;

**B.10.** Timely notice of any meeting at which a Party's presence is requested, with sufficient time to prepare for the meeting;

**B.11.** Autonomy to decline to participate, although the College may choose to continue the grievance process even if the Complainant and/or Respondent does not participate;

- B.12.** To identify witnesses, submit suggested questions in writing during the investigation, and provide evidence during the investigation;
- B.13.** Access to the relevant and not otherwise impermissible evidence and a reasonable opportunity to respond;
- B.14.** Regular communication about the progress of the grievance process, including notice with reasonable explanations of any extensions to timeframes;
- B.15.** Timely written notice of the outcome, including any sanctions and rationale;
- B.16.** Timely written notice of Outcome Appeal opportunities and instructions, if available;
- B.17.** Determinations made according to a preponderance of the evidence (“more likely than not”) standard; and
- B.18.** Reasonable accommodations for individuals with disabilities that can be requested through the Title IX Coordinator.

## **C. Supportive Measures**

Supportive Measures may be requested by Parties at any time. For information about Supportive Measures, including examples of Supportive Measures and how to challenge Supportive Measure decisions, please see the [Title IX Policy](#), Section VIII.

## **D. Complaint Intake & Evaluation**

Upon receipt of a Complaint, the Title IX Coordinator will make an initial evaluation of the information. In cases involving a faculty member, the Dean of the Faculty, who also serves as a Deputy Title IX Coordinator, will be notified. In cases involving a staff member, the Director of Human Resources, who also serves as a Deputy Title IX Coordinator, will be notified.

The Title IX Coordinator may dismiss a Complaint made through these procedures at any time if: the College is unable to identify the Respondent; the Respondent is not participating in the College’s education program or activity and/or is not employed by the College; the conduct alleged in the Complaint, if proven, would not constitute a violation of the Title IX Policy, or the Complainant voluntarily withdraws any or all of the allegations. This evaluation will typically be completed within five business days. If the Title IX Coordinator issues a dismissal, they will send written notice to the Complainant and the Respondent if the Respondent had been notified of the Complaint.

Parties will have a right to appeal the dismissal decision within five business days. The written dismissal notice will include the name and contact information of the body to hear the dismissal appeal if applicable. These are:

- For students and staff: A Deputy Title IX Coordinator not otherwise involved in the case.
- For faculty: The Faculty Appeals and Review Committee.

Appeals of dismissal decisions must be based on one or more of the following appeals criteria:

- (i) Procedural irregularity that would change the dismissal determination;

(ii) New evidence that would change the outcome of the matter and that was not reasonably available at the time the dismissal was made; and

(iii) The Title IX Coordinator, Investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome of the matter.

Upon receipt of an appeal, the assigned dismissal appeal body will notify the other Party if applicable and provide them an opportunity to respond, prior to considering the appeal. The assigned dismissal appeal body will make a determination regarding the appeal within five business days and will notify the Parties and the Title IX Coordinator of the outcome. If the appeal outcome overturns the dismissal decision, the Complaint will proceed.

## **E. Advisor of Choice**

Complainants and Respondents may be accompanied by up to two Advisors of their choice at all meetings and proceedings related to a Formal or Informal process under these procedures. The College cannot limit who may be chosen as an Advisor. An Advisor may be, but is not required to be, an attorney. If a Complaint is filed, Advisors are encouraged to speak with the Title IX Coordinator for an orientation to the College's Title IX Policies and Procedures, privacy protections, and expectations around participation and rules of decorum. A grievance process will not be unreasonably delayed to accommodate the schedule of an Advisor.

## **F. Informal Resolution**

Informal Resolution may be considered in any case except those of alleged sexual harassment between a student Complainant and faculty Respondent. It is a voluntary process by which a Complaint may be resolved without an investigation, hearing, or formal finding of responsibility. A request for Informal Resolution may be made at any time prior to a finding of responsibility being made through a Formal Resolution process. It also may be requested before a Formal Resolution process has been initiated. Requests for Informal Resolution should be made to the Title IX Coordinator, who will determine whether Informal Resolution may be available.

When requested and available, a written notice of Informal Resolution, including notice of allegations, will be sent to the Parties. The notice will include information about applicable Informal Resolution processes. Those processes will include reasonably prompt timeframes and be facilitated by persons who have been trained to serve impartially and who are free from bias or conflicts of interest. Participation in any Informal Resolution process is voluntary, and all Parties must agree to participate for it to proceed. The Informal Resolution process is completed when all Parties have signed a resolution agreement. Upon the finalization of an Informal Resolution, the College will not proceed with other Title IX Procedures related to the same Complaint; however, action may be taken in response to any Party's failure to abide by the terms of the Informal Resolution.

At any time prior to the completion of an Informal Resolution process, a Party may elect to withdraw from Informal Resolution. If a Formal Resolution process was underway prior to attempting Informal Resolution, the Formal process will recommence upon a Party's withdrawal from Informal Resolution. If no Formal Resolution had been initiated, the Complainant or Title IX Coordinator may initiate a Formal Resolution process.

## **G. Formal Resolution**

### **G.1. Investigation**

When a Complaint is received, Complainant and Respondent will receive written notice of allegations and investigation. This notice will include:

- The identities of the Parties involved;
- The conduct alleged to constitute potential violations of the Title IX Sex-Based Harassment & Discrimination Policy (as well as other College policies as applicable);
- The specific sections of College policy allegedly violated;
- A statement indicating that the Respondent is presumed not responsible for the alleged conduct;
- A statement that the finding of responsibility will be made at the conclusion of the grievance process;
- A notice that Parties have the right to be accompanied in any Formal Resolution meetings by up to two Advisors of their choice; and
- A statement that retaliation is prohibited.

The notice will be provided in advance of any interview with the Investigator, with sufficient time for meaningful preparation. If, in the course of the investigation, additional information is gathered that changes the nature of the allegations, an updated notice of investigation will be provided to the Parties.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not the Parties. The Parties will have an equal opportunity to present witnesses, including expert witnesses, and to submit evidence. The Investigator will meet with Parties and witnesses to gather accounts and information relevant to the allegations under investigation. The Investigator will also gather available physical evidence, including documents, communications between the Parties, and other electronic records as appropriate and available. The Parties may submit questions to the Investigator to be asked of Parties and witnesses. The Investigator will review submitted questions and, in their discretion, may choose which questions are necessary and appropriate to the investigation and conduct any follow-up.

The following types of evidence, and questions seeking that evidence, will be considered impermissible throughout the investigation:

- (i) Evidence that is protected under legal privilege, unless the person holding such privilege has appropriately waived the privilege voluntarily;
- (ii) A person's medical counseling/psychological, and/or similar treatment records, unless the College obtains that person's voluntary, written consent for use in the Formal Resolution process; and
- (iii) Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless that evidence is offered to prove that someone other than the Respondent committed the alleged conduct or is offered to prove consent with evidence concerning specific incidents of the Complainant's prior sexual conduct with the Respondent.

The College will seek to complete the investigation in a reasonable timeframe from the notice of investigation. This timeframe is typically 30 to 90 days and may be extended for good cause with written notice to the Parties of the delay and the reason for the delay. Examples of good cause include, but are not limited to, delays occasioned by the complexity of the allegations, the number of witnesses involved, the availability of the Parties or witnesses, any intervening school break, or other circumstances, all of which may extend the length of time it takes to complete the investigation. The investigation may also be paused if both Parties voluntarily enter the Informal Resolution process. The Title IX Coordinator will provide regular updates to all Parties regarding the progress of the investigation.

## **G.2. Review of Evidence**

After the Investigator has completed the initial information gathering process, but prior to the completion of a finalized investigative report, a summary of the relevant evidence will be provided to the Parties, along with a deadline by which to respond. Access to evidence will be provided upon request by the Parties. The deadline to respond will be seven business days after the summary was made available, although extensions may be provided under extraordinary circumstances. Responses should be made in writing and may include additional information, a request that the Investigator gather additional information, and/or a request that the Investigator re-consider information already provided.

## **G.3. Investigation Report**

Once the Parties have reviewed the evidence and have submitted responses, or the time period to submit such responses has passed, the Investigator will complete any follow-up they deem necessary, write the investigation report, and submit it to the Title IX Coordinator. The matter will then move to Response Hearings.

## **G.4. Assignment of Decisionmakers**

The Policy Decisionmaker assigned by the College will be neutral and impartial. The Policy Decisionmaker will not be the Title IX Coordinator, nor will they have acted in the role of Investigator during the grievance process or served in another role at the College that would pose a conflict of interest. The Parties will be informed, in writing, of the specific Policy Decisionmaker assigned to their Response Hearings.

The Title IX Coordinator will simultaneously assign and notify the Parties of the Sanction Decisionmakers designated to determine sanctions if the Policy Decisionmaker determines that the Respondent was responsible for violating a policy. Sanction Decisionmakers will be neutral and impartial. Sanction Decisionmakers are assigned based on the role of the Respondent within the College community, as follows:

- Student Respondents: Sanctioning determinations (if applicable) are assigned to the Vice President for Student Life (or designee), who will consult with three assigned members of the Student Judicial Board.
- Staff Respondents: Sanctioning determinations (if applicable) are assigned to the Complainant's and Respondent's Vice President/Dean, who will consult with the Director of Human Resources (or designee).

- Faculty Respondents: Sanctioning recommendations (if applicable) are assigned to the \*Investigating Committee who makes recommendations to the President. The President makes a final sanctioning determination and then issues a written determination to the Parties and Title IX Coordinator. In the case of a recommended sanction of fixed-term suspension or termination, the President's decision will be made in consultation with the Faculty Committee on Advancement and Tenure. For more details on faculty sanctioning, please see the Faculty Rules of Procedure, section J.5.

\*Note: In cases of sex-based discrimination or harassment, the Investigation Committee does not conduct investigations, but rather only recommends sanctions.

Any Party's objection to a Policy Decisionmaker or Sanction Decisionmaker must be raised in writing with the Title IX Coordinator, within three business days of the notification. The written request must include reasonable articulable grounds establishing bias or conflict of interest on the part of a Policy Decisionmaker or Sanction Decisionmaker that would prevent the impartial resolution of the matter.

### **G.5. Pre-Hearing Conference**

Each Party may elect to have a Pre-Hearing Conference by making a request to the Title IX Coordinator who will then arrange the logistics. The purpose of the Pre-Hearing Conference is to allow the Parties to request witnesses to appear at individual Response Hearings, to request that any new evidence be considered that was not submitted previously to the Investigator, and to review the process and protocols for the Response Hearings.

Evidence and witnesses may only be presented at Response Hearings if they were submitted to the Investigator and made available to the Parties for review, unless they were unavailable at the time of the investigation or the relevance was unknown until after the investigative report was submitted. The Policy Decisionmaker will make determinations regarding any requests to present new evidence and new witnesses at the Pre-Hearing Conference.

The Pre-Hearing Conference is also an opportunity for Parties to discuss lines of questioning they intend to submit to the Policy Decisionmaker to present to other Parties and witnesses, during the separate Response Hearings.

### **G.6. Response Hearings**

The College will seek to schedule individual Response Hearings for the Parties and relevant witnesses in a reasonably prompt timeframe. This timeframe may be extended for good cause with written notice to the Parties of the delay and the reason for the delay.

Response Hearings may be conducted virtually, or with individuals physically present in the same geographic location, and generally take five to 15 business days to complete. During the Response Hearings, the Parties will have opportunities to provide opening and closing statements, present their accounts, and answer questions from the Policy Decisionmaker. The purpose of the Response Hearing is to allow Parties and witnesses opportunities to answer questions, including those questions suggested by the Parties, and those questions that will allow the Policy Decisionmaker to assess the credibility of



the Parties and witnesses. All Response Hearings are transcribed, and the transcript will be the property of the College. The transcript will be made available to the Parties with enough time for the Parties to have a reasonable opportunity to propose follow-up questions.

In addition to notice of their individual Response Hearings, the Parties will also receive deadlines by which to submit written questions to the Policy Decisionmaker that they would like asked of other Parties and witnesses. The Policy Decisionmaker retains the sole discretion in asking Party-submitted questions, and will exclude questions that are harassing, intimidating, irrelevant, or redundant. Relevant questions are those tending to prove or disprove a material fact at issue. The Policy Decisionmaker may request that Parties revise or provide additional explanation of relevance regarding questions they have submitted to the Policy Decisionmaker.

In the event that new, relevant, substantive, and material information other than a Party's or witness's response is provided during a Response Hearing, the Policy Decisionmaker will share the new information with the Parties. The Policy Decisionmaker may reconvene Response Hearings to allow each Party the opportunity to respond to the new information presented, answer additional questions about the new information, and suggest questions to be asked of other Parties specifically about the new information. Additional information shared, such as additional witnesses not identified or materials not provided prior to the Response Hearings, will not be permitted unless the Party providing the information demonstrates that the witness or information was previously unknown or unavailable prior to the Response Hearings.

The Policy Decisionmaker shall not draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from a Response Hearing or refusal to answer questions. Following the conclusion of all Response Hearings, the Policy Decisionmaker will determine whether the Respondent is responsible for the policy violation(s) in question, based on a preponderance of the evidence standard.

#### **G.7. Notice of Outcome**

The Policy Decisionmaker's written finding of responsibility will be submitted to the Title IX Coordinator.

If the Respondent is found responsible for violating College policy, the Title IX Coordinator will notify the Sanction Decisionmakers assigned according to section G.4. In determining appropriate sanctions, Sanction Decisionmakers will review Response Hearing decisions, investigative evidence, and prior Respondent disciplinary records, if any, and consult with the Policy Decisionmaker as needed. If applicable, the Sanction Decisionmakers will submit a written determination of sanctions to the Title IX Coordinator.

The Title IX Coordinator will combine the Policy Decisionmaker's determination with any sanction determinations, and will simultaneously provide the Parties with written notification of the outcome. This notification will provide the Parties with information about their options for appeal, including the name and contact information of the Appeal Decisionmaker, and include information about when the outcome determination is considered final.

## H. Possible Sanctions & Remedies

In cases where there is a finding of responsibility for violation(s) of College policy, sanctions will be assigned based on a number of factors, including, but not limited to: the nature, severity of, and circumstances surrounding the violation(s); the Respondent's disciplinary history; and the need for sanctions to end, prevent future recurrence of, and/or remedy the effects of discrimination, harassment, and/or retaliation.

### **Student Sanctions:**

The following are the common sanctions that may be imposed upon students but are not limited to:

- Educational meetings with designated Student Life staff member(s)
- Health and Counseling Center meetings
- Alcohol and/or drug assessments or other interventions
- Educational programs and/or external coursework
- Financial restitution
- Disciplinary probation
- Restrictions or removal related to on-campus student employment, appointed/volunteer positions, or participation in College organizations or events
- Restrictions related to living in or accessing College-owned housing
- Removal from College-owned housing
- Suspension
- Restriction and/or hold on transcripts, registration, and receipt of diploma
- Limited exclusion from campus
- Full exclusion from campus and all College-affiliated events
- Expulsion

### **Employee Sanctions:**

The following are the common sanctions that may be imposed upon employees but are not limited to:

- Verbal or written warning
- Performance improvement plan
- Enhanced supervision, observation, or review
- Required training or education
- Probation
- Denial of pay increase/pay grade
- Loss of oversight or supervisory responsibility
- Demotion
- Reassignment
- Suspension/administrative leave
- Termination

# I. Outcome Appeals

*The following section describes procedures for applicable appeals of outcomes. This section does not describe the process for the appeal of dismissal decisions, which is detailed above, in section D. Challenges to Supportive Measure decisions may also be made according to the process articulated in the [Title IX Sex-Based Harassment & Discrimination Policy](#), section VIII, under “Supportive Measures.”*

## I.1. Assignment of Outcome Appeal Decisionmakers

Outcome Appeal Decisionmakers will be neutral and impartial and are assigned based on the role of the Respondent within the College community, as follows.

- Student Respondents: Appeals are heard by the Appeals Board, as defined at section 6 of the [Student Judicial Board Code](#). Appeals Board decisions take the form of recommendations to the Vice President for Student Life (or designee), who will determine the final outcome.
- Staff Respondents: Appeals are heard by a panel of at least two Vice Presidents/ Deans.
- Faculty Respondents: Appeals are heard by the Faculty Appeals and Review Committee. Board of Trustees Appeals (see section J.6. of the [Faculty Rules of Procedure](#)) are heard by the Board of Trustees.

## I.2. Grounds for Appeal

Outcome Appeals and Board of Trustees Appeals are limited to the following grounds:

- A procedural irregularity that would change the outcome;
- New evidence that would change the outcome and was not reasonably available at the time the determination of policy violation occurred;
- The Title IX Coordinator, Deputy Coordinator, Investigator, or Decisionmaker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome;
- The sanctions are believed to be excessively lenient or severe.

## I.3. Appeals Procedures

In matters for which an Outcome Appeal is available, any Party may submit a written request for appeal to the designated appeal authority (see section I.1. above) within seven business days of the delivery of the notice of outcome. This does not initiate a new hearing; rather, appeals are available to address possible errors made in the Title IX Procedures process.

If an appeal is received, the Appeal Decisionmaker will notify all Parties and the Title IX Coordinator, and provide a copy of the request for appeal, along with an opportunity for other Parties to respond, within seven business days. Appeal responses are shared with other Parties – without additional opportunity for response.

If a request for appeal does not meet any of the grounds for appeal, the Appeal Decisionmaker will deny the appeal request and the Parties will be notified in writing

of the denial and the rationale. If any of the grounds for appeal are met in the request, the Appeal Decisionmaker will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses, and will render a decision, typically within 10 business days.

The notice of appeal outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law. A Notice of Appeal Outcome will be simultaneously sent to all Parties and the Title IX Coordinator simultaneously typically within 10 business days of appeal submission.

- In cases involving Faculty Respondents, the President will also receive appeal outcome notification.
- In cases of fixed-term suspension or termination sanctions for Faculty Respondents, the Board of Trustees will also receive appeal outcome notification.

All Outcome Appeals are final, except when additional action is requested by the Appeal Decisionmakers or in cases that are eligible for a Board of Trustees Appeal.

For more information on Faculty Appeals and Review Committee composition and the availability of and procedures pertaining to Board of Trustee Appeals, see section J.6. of the [Faculty Rules of Procedure](#).

## **J. Records**

See the [Title IX Policy](#), section XII, for information on recordkeeping.

## **K. Procedure Maintenance**

The College will review the Title IX Sex-Based Harassment & Discrimination Procedures at minimum on an annual basis. Non-substantive changes or changes required by law will be made by the Title IX & Section 504 Office. Other changes will be presented to the community for review and comment and will be implemented in accordance with College governance policies.