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## BACKGROUND

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- Became effective August 14, 2020
- Implemented in response to 2020 Title IX Regulations
- Much more complex policy and procedures
- Much longer!

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**What hasn't changed:**

- We still provide support and resources first
- We still prohibit the same behaviors

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## SCOPE AND RESPONSIBILITY

- Main purpose – prohibit all forms of discrimination
  - Exclusion from/different treatment in activities (ex: admissions, athletics, employment)
  - Discriminatory harassment
  - Incidents, patterns, or climate
- If respondent is UW-affiliated, complainant doesn't have to be
- Title IX Coordinator oversees the policy

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## SUPPORTIVE MEASURES

- Non-disciplinary, non-punitive individualized services
- Cannot unreasonably burden the other party
- Offered without fee or charge to the parties
- Designed to restore or preserve access to the UW's education program or activity
- Includes measures designed to protect the safety of all parties and/or the UW's educational environment, and/or to deter harassment, discrimination, and/or retaliation.
- Don't have to file a complaint to access supportive measures

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## EXAMPLES OF SUPPORTIVE MEASURES

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Referral to counseling, medical, and/or other healthcare services</li> <li>• Referral to the Employee Assistance Program</li> <li>• Referral to community-based service providers</li> <li>• Visa and immigration assistance</li> <li>• Student financial aid counseling</li> <li>• Education to the institutional community or community subgroup(s)</li> <li>• Altering campus housing assignment(s)</li> <li>• Altering work arrangements for employees or student-employees</li> <li>• Safety planning</li> <li>• Providing campus safety escorts, typically in conjunction with UWPD</li> </ul> | <ul style="list-style-type: none"> <li>• Providing transportation accommodations</li> <li>• Implementing contact limitations (no contact orders) between the parties</li> <li>• Academic support, extensions of deadlines, or other course/program-related adjustments</li> <li>• Trespass orders</li> <li>• Class schedule modifications, withdrawals, or leaves of absence</li> <li>• Increased security and monitoring of certain areas of the campus</li> <li>• Any other actions deemed appropriate by the Title IX Coordinator</li> </ul> |
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## Types of Orders

- **UW No Contact Order:** (DOS or EORR) directs an individual to not communicate with another specifically-named person. Reciprocal between parties. Violation could result in a policy violation.
- **UW Trespass Order:** (UWPD) directs an individual that they cannot be on UW property. Violation could result in a criminal charge of trespassing.
- **Law Enforcement Verbal No Contact Order:** (UWPD or LPD) directs an individual to not have contact with another specifically-named person. Violation could result in a citation or arrest.
- **Criminal Bond/Probation No Contact Order:** (Civil or criminal court) directs an individual who has been charged with or convicted of a crime not to have contact with another specifically named person. Violation could result in the revocation of bond or probation, causing the person to go to jail.
- **Protection Order:** (Civil or criminal court) prevents certain acts (violence, threats, harassment, and sexual violence) against another person as well as preventing contact or communication with another person. Violation could result in a criminal charge.

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## EMERGENCY REMOVAL

- UW can remove a student Respondent entirely or partially from its education program or activities on an emergency basis
  - Individualized safety and risk analysis – Violence Risk Assessment
  - **Immediate** threat to the **physical** health or safety of an individual
  - Written notice that includes basis for removal
- Student can request “show cause” meeting with TIXC and UWPD
  - Must be requested in timely fashion
  - Held beforehand or “as soon as reasonably possible” (36 – 48 hrs.)
  - Complainant and advisor can attend at TIXC discretion
  - No appeal
- Least restrictive actions possible in light of the circumstances and safety concerns
  - Restricted access, suspended participation, withdrawals/incompletes, suspension, etc.
- Employees – Can be placed on paid admin leave

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## PROMPTNESS

- 60-90 business days
- Extenuating circumstances
- Written notice (cause and estimated delay)

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### Confidentiality vs. Privacy

- FERPA
- "Need to know"
- Parental notification




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### JURISDICTION OF POLICY

- Respondent is a member of UW community
- Behavior that happens on campus or in connection with UW programs/activities (conferences, travel, etc)
- Off-campus or online behavior that has continuing effects on campus or in an off-campus sponsored program or activity
  - Misconduct that effectively deprives a person of access to educational program/employment
  - Actions that constitute a criminal offense
  - Respondent poses an immediate threat to physical health/safety
  - Situations that interfere with educational interests or mission of the University

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### MORE ON JURISDICTION

- When Respondent is unknown/NOT affiliated with UW
  - Supportive measures, refer to campus and local resources
  - Assist with report to law enforcement (if appropriate/wanted)
  - Actions to protect (no trespass, etc.)
- Applies regardless of sexual orientation/gender identity
- Alcohol/drugs don't excuse violations
- TIXC can assist with other schools, externships, non-UW study abroad, etc.

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### No Time Limits on Reporting

- Ability to respond becomes more limited
- Policy in place at time of incident, procedures at time of report



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### ONLINE HARASSMENT AND MISCONDUCT

- Includes online manifestations of any prohibited behaviors
  - when they occur in/have an effect on UW's education program and activities
  - when they involve the use of UW networks, technology, or equipment
- We discourage cyber-bullying/harassment, but policy applies:
  - substantial in-program disruption or infringement on the rights of others
  - Made by employee in official or work-related capacity
  - Otherwise protected by First Amendment

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### POLICY ON NONDISCRIMINATION

• Race	• Protected veteran status
• Gender	• Sexual orientation
• Religion	• Gender identity
• Color	• Genetic information
• National origin	• Creed
• Disability	• Ancestry
• Age	• Political belief

Education OR Employment

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## DISCRIMINATORY HARASSMENT

- Unwelcome conduct on the basis of actual or perceived membership in a protected class
- We try to remedy all forms of harassment, not just a hostile environment
- **Hostile environment** – unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This results from harassing verbal, written, graphic, and/or physical conduct that is:
  - 1) severe or pervasive
  - and
  - 2) objectively offensive

We can also address behavior that doesn't rise to the level of a hostile environment or that is generic in nature and not based on a protected category.

- Addressed through respectful conversation, remedial actions, education, effective Alternative Resolution, and/or other informal resolution mechanisms

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## SEXUAL HARASSMENT \*

\* per the 2020 Title IX regulations (34 CFR Part 106.30)




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- 1) Quid Pro Quo:
  - a. an employee of the University,
  - b. conditions the provision of an aid, benefit, or service of the University,
  - c. on an individual's participation in unwelcome sexual conduct
- 2) Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a person equal access to UW's education program or activity.

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## 3) Sexual assault, defined as:

## a) Sex Offenses, Forcible:

- Any sexual act directed against another person,
- without the consent of the Complainant,
- including instances in which the Complainant is incapable of giving consent.

## b) Sex Offenses, Non-forcible:

- Incest:
  - 1) Non-forcible sexual intercourse,
  - 2) between persons who are related to each other,
  - 3) within the degrees wherein marriage is prohibited by Wyoming law.
- Statutory Rape:
  - 1) Non-forcible sexual intercourse,
  - 2) with a person who is under the statutory age of consent in Wyoming.

## 4) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii. Dating violence does not include acts covered under the definition of domestic violence.

## 5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Wyoming, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Wyoming.

\*To categorize an incident as Domestic Violence under this policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

## 6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- i. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- ii. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- iii. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

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FORCE, COERCION, CONSENT, AND  
INCAPACITATION




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## FORCE AND COERCION

**FORCE** – Use of physical violence and/or physical imposition to gain sexual access

- Includes threats, intimidation (implied threats), and coercion intended to overcome resistance or produce consent (“Have sex with me or I’ll hit you”)

**COERCION** – unreasonable pressure for sexual activity after someone:

- makes clear that they do not want to engage in certain sexual activity
- that they want to stop
- that they do not want to go past a certain point of sexual interaction

*Differs from seduction based on factors such as type/extent of pressure used to obtain consent*

**Consent is not demonstrated by the absence of resistance!**

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**Affirmative**

- Silence/passivity is not consent, without:
  - actions that show permission

**Conscious/Knowing**

- Asleep/unconscious?
- Incapacitated b/c drugs, alcohol, medications?
- Unable to communicate? (mental/phys condition)
- Under age of consent?

**Consent is sexual permission.**

- Can be withdrawn at any time
- by clear/reasonable signals

If withdrawn, activity should stop in reasonable time frame.

**Clear**

- Given by word or action
- Non-verbal not as clear

Talk about what you do/don't want!

**Voluntary**

- Consent to *some* activity ≠ consent to other activity
- Previous consent ≠ future consent

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**INCAPACITATION**

A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs.

- when someone cannot make rational, reasonable decisions
- because they lack the capacity to give knowing/informed consent
- e.g., to understand the “who, what, when, where, why, and how” of their sexual interaction

- Did the Respondent know/should have known that Complainant was physically/mentally incapacitated?
- Consider of all relevant indicators of an individual's state
- Not synonymous with intoxication, impairment, blackout, and/or being drunk

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**OTHER CIVIL RIGHTS OFFENSES**

(ADDRESSED WITH PROCESS B)

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### Discrimination

- Adverse consequence based on protected class
- Failure to be hired/promoted
- Denial of admission to academic program




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### SEXUAL EXPLOITATION OF ADULTS

Taking non-consensual or abusive sexual advantage of another for their own advantage or benefit (or someone else's)

- Allowing others to view private sexual activity from a hidden location or through electronic means without consent
- Voyeurism, recording and/or sharing nudity or sexual activity without consent
- Exposing genitals, prostituting, assisting with incapacitation, catfishing, coercion for any of the above

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### SEXUAL EXPLOITATION OF MINORS

- Involvement with child pornography, including possession and distribution
- Sexual conduct with a minor

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## RETALIATION



- Protected activities: making a report, participating in the grievance process, supporting a Complainant or Respondent, providing information, and/or acting in good faith to oppose conduct that constitutes a violation
- Filing complaint under Process B in order to interfere with/circumvent Process A
- Free speech is NOT retaliation
- Charging someone with providing a materially false statement in bad faith is NOT retaliation

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## MANDATORY REPORTING

- All UW employees are considered mandatory reporters, except:
  - University Counseling Center (and other counselors)
  - Student Health Services (and other medical staff)
  - Student Legal Services
  - Dual roles – advocates, clergy, faculty, etc.
    - What hat were they wearing?
  - Exceptions for health/safety/abuse
- Must share all known details, names, etc.
- Exceptions for specials events/groups (Take Back the Night, support groups/circles)

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## RELUCTANT COMPLAINTS



- Complainant can request no action or participation
- TIXC evaluates request, may request a Violence Risk Assessment (VRA)
- “Compelling risk to health/safety”
  - patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence
  - including cases where behavior has resulted in criminal citations or arrests
- TIXC can sign a formal complaint and move forward despite request from complainant

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## COMPLAINTS REQUEST NO ACTION

- Our ability to respond is limited
  - Informal resolution options, supportive measures
- Complainants can change their mind later
  - Delays can limit access to evidence/witnesses
  - Changes to status of Complainant/Respondent

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## WHEN THE TIXC SIGNS A COMPLAINT

- TIXC does NOT become the Complainant
- Complainant (and/or Advisor) can have as much/little involvement as they wish
  - Retains all rights regardless of participation
  - Advisor can be appointed as proxy, but cannot present evidence/testimony




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## FALSE ALLEGATIONS OR EVIDENCE

- Deliberately false accusations are a serious offense
- Does not include good-faith allegations that are erroneous or don't result in violation
- Providing false evidence, tampering with/destroying evidence, deliberately misleading an official conducting an investigation

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## HEALTH AND SAFETY EXEMPTIONS

- UW may choose not to pursue minor conduct violations
  - Ex: underage drinking, illicit drug use at the time of the incident
- When seeking help for themselves or others
- Determined by DOS
- Does not include abuse of others, drug distribution

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## STATISTICAL REPORTING OBLIGATIONS – THE CLERY ACT

- We must disclose statistics for crimes that occur on campus, adjacent to/through campus, and some non-campus facilities (Greek houses, remote classrooms, etc.)
- Many campus employees are Campus Security Authorities (CSA's) who must report de-identified information to UWPD
  - Type of incident
  - Location (not specific addresses)

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## TIMELY WARNINGS

- Sent as email, UW Alert
- Disseminated when serious crimes occur, or the threat of ongoing criminal acts may be repeated on campus
  - Example: a report of a sexual assault that occurred on campus when known facts suggest a potential risk to others

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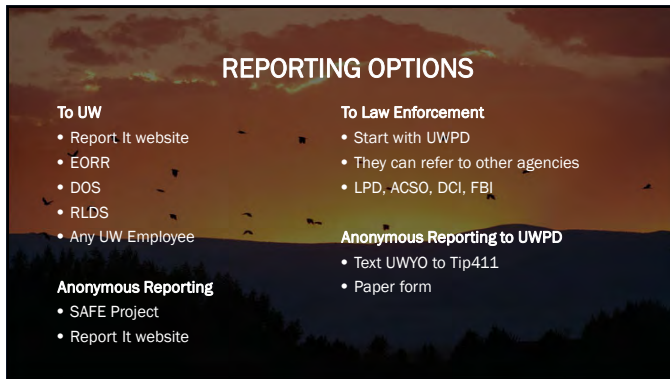
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## REPORTING OPTIONS

**To UW**

- Report It website
- EORR
- DOS
- RLDS
- Any UW Employee

**Anonymous Reporting**

- SAFE Project
- Report It website

**To Law Enforcement**

- Start with UWPD
- They can refer to other agencies
- LPD, ACSO, DCI, FBI

**Anonymous Reporting to UWPD**

- Text UWYO to Tip411
- Paper form

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## PROCESS A

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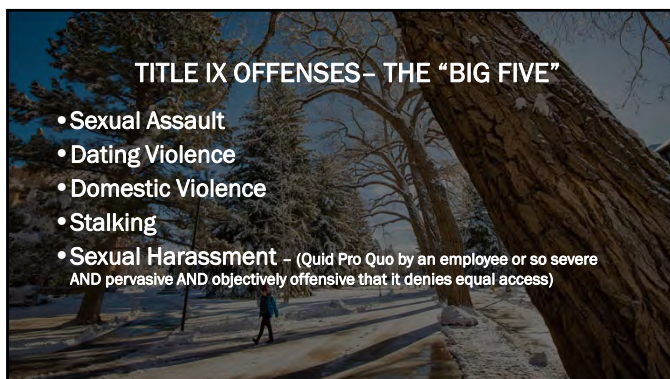
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## TITLE IX OFFENSES- THE "BIG FIVE"

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking
- Sexual Harassment – (Quid Pro Quo by an employee or so severe AND pervasive AND objectively offensive that it denies equal access)

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### Three ways to resolve allegations

- Process A – Applies only to qualifying allegations of sexual harassment (the “Big Five”) involving students, staff, administrators, or faculty members.
- Process B – Applies to all other protected class harassment or discrimination. Process B can also apply to sexual harassment when jurisdiction does not fall within Process A.
- Referral to other policies/procedures – Applies to all other allegations of misconduct not covered under Process A or Process B. These will be addressed through procedures in the Student Code of Conduct, Employee Handbook, and UW Regulations.

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### INITIAL ASSESSMENT

- Reach out – offer supportive measures, right to advisor
  - Do they want to file formal complaint?
    - Is there a reason to move forward if they don't?
- ☐ Supportive/remedial response  
☐ Informal resolution  
☐ Formal grievance process

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### FORMAL PROCESS REQUESTED

- TIXC determines if the misconduct alleged falls within the scope of the 2020 Title IX regulations
- If so, directs an investigation into:
  - An incident
  - A pattern
  - A climate/culture issue
- If not, “dismiss” under Process A and refer to Process B
  - Just procedural, doesn't limit authority

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## VIOLENCE RISK ASSESSMENT



- Assesses the risk of actionable violence
- Focus on targeted/predatory escalations, supportive and exacerbating factors
- Not an evaluation for an involuntary behavioral health hospitalization
- Not a psychological or mental health assessment

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## MANDATORY DISMISSAL

Process A only applies when a complaint alleges a “Big Five” offense **AND** the conduct:

- Happened in the US **AND**
- Occurred where the University controls the context of the incident (a UW program or property, typically) **AND**
- UW has jurisdiction over the respondent as a student or employee **AND**
- Happened to a complainant who at the time of the complaint was participating in or attempting to participate in the University’s educational program.

These jurisdictional requirements are spelled out by the 2020 Title IX regulations and are rigid. If any of these requirements are not met, the University is required to “technically” dismiss the complaint and refer it to Process B.

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## DISCRETIONARY DISMISSAL

- A complainant withdraws the formal complaint in writing to the Title IX Coordinator
  - Can reinstate it later
- The respondent is no longer enrolled in or employed by the University
- Specific circumstances prevent the University from gathering sufficient evidence to reach a determination

Upon any dismissal, UW will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal.

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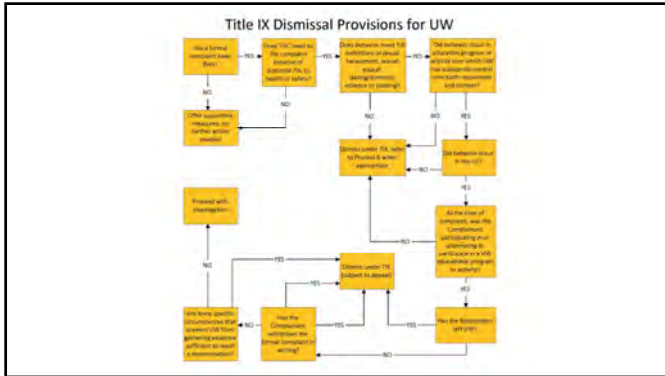
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## COUNTERCLAIMS

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UW is obligated to ensure that the grievance process is not abused for retaliatory purposes.

- We use the initial assessment to determine whether allegations in a counterclaim are made in good faith
- Can be reviewed after resolution of underlying claim, or using same investigation

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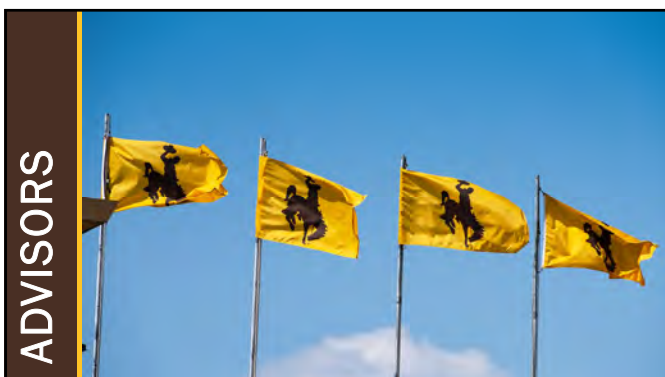
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## RIGHT TO AN ADVISOR



- Advisor of choice
  - Cannot have conflicting roles (role in TIX process, supervisor)
- Present for all meetings, interviews, and hearings *if they choose*
- Advisor who is a witness – creates potential for bias/conflict-of-interest
  - Will be explored by Decision-maker
- May allow more more than one Advisor
  - TIXC discretion, equitable

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## WHO CAN BE ADVISORS



- May be a friend, mentor, family member, attorney
- UW can appoint a trained advisor as well
- If from outside UW, may not be familiar with UW policy/procedures
  - Can request pre-interview meeting to review
- Must have advisor for hearing to conduct questioning

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## RULES FOR ADVISORS



- Cannot disrupt proceedings
- Can't speak on behalf of advisee
- Can consult, pass notes, consult in private
- Advisors get one warning when they overstep. Then meeting can be ended.

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## SHARING INFO WITH ADVISORS

- Parties can share info with Advisor directly
- Can sign a release authorizing UW to share info with them
- Advisors are expected to maintain the privacy of the records shared with them
- We will restrict the role for Advisors who don't follow expectations

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## EXPECTATIONS OF ADVISORS

- Adjust their schedule to attend meetings when planned
  - May accommodate their schedule if it doesn't cause unreasonable delay
  - Can attend by phone/video
- Can change advisors
- Should inform investigator of Advisor's identity 2 days in advance of first meeting
- We don't make referrals – individuals can contact the WY State Bar

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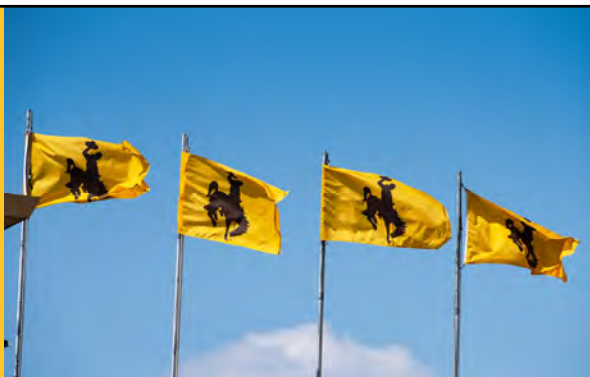
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## RESOLUTION




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## INFORMAL RESOLUTION

- Supportive Resolution – supportive measures (only)
- Alternative Resolution – when the parties agree to resolve through an alternative resolution mechanism such as mediation, restorative justice practices, facilitated dialogue, etc.
- Accepted Responsibility – when the Respondent accepts responsibility for violating policy, and desires to accept a sanction(s) and end the resolution process

*To initiate Informal Resolution, a Complainant must submit a formal complaint*

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## INFORMAL RESOLUTION

- TIXC determines appropriateness for informal resolution
- Can return to formal process at any time
- Can agree anything shared during informal resolution will not be used in formal process without consent of all
- Resolution agreement – cannot be appealed

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## NOTICE OF INVESTIGATION AND ALLEGATIONS

- Summary of allegations (date, time, location, identities)
- Policies, procedures, possible sanctions
- Presumption of non-responsibility
- Expectation of truthfulness, preservation of evidence
- Information about confidentiality, retaliation, Advisors, disability accommodations
- Name of the investigator

Updates to NOIA are made if needed.

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**INVESTIGATION TIMEFRAME**

- Normally completed within 30 business days
- Delays for law enforcement (10-14 days)
- Language assistance or disability accommodations
- Absence of parties/witnesses

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**WITNESSES**

- Witnesses are encouraged to participate, but we cannot force participation under Process A
- We prefer in-person interviews, but video is acceptable
- Can submit written statements in lieu of interview
  - Must be present at hearing and answer all questions or statement cannot be used as evidence
    - **UPDATE!** This provision may be changing, as this section of the regulations was successfully challenged in court in Aug 2021 ([VRLC et al v. Cardona](#))

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### Recording of Interviews

- We don't typically record
- We must disclose if we do
- **No unauthorized recordings**




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### EVIDENTIARY CONSIDERATIONS

We do not consider:

- incidents not directly related to the possible violation (unless they evidence a pattern)
- the character of the parties
- questions and evidence about the Complainant's sexual predisposition or prior sexual behavior
  - unless offered to prove that someone other than the Respondent committed the alleged conduct
- specific incidents of the sexual behavior with the Respondent offered to prove consent

(during the investigation OR the hearing)

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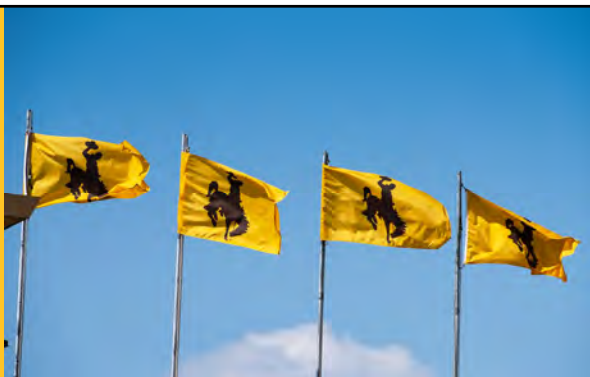
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### HEARINGS




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## REFERRAL FOR HEARING

- When investigation is complete, the matter is referred for a hearing
  - Unless resolved through Informal Resolution
- Minimum of 10 business days from transmission of investigation file to hearing

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## HEARING DECISION MAKER(S)

- Single Decision-maker or three-member Panel
  - Can request mixed gender panel
- No previous involvement with the case
- Dismissal level offences – usually contract with local attorney or third-party firm
- TIXC can be hearing facilitator

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## Evidence for Sanctioning

Previous disciplinary history can be shared

Parties can submit a written impact statement




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## HEARING NOTICE



- Hearing logistics and technology, allegations and policies, copy of materials, info about recording, remote participation
- List of attendees, invitation to object to Decision-maker (min 2 days prior)
  - Demonstrated bias or conflict of interest
- Failure to attend means previous statements cannot be considered
  - **UPDATE!** This provision may be changing, as this section of the regulations was successfully challenged in court in Aug 2021 ([\*VRLC et al v. Cardona\*](#))
- Requirement for Advisor

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## PREHEARING PREPARATION



- Witnesses and evidence must be introduced during investigation
  - Parties and Decision-maker must agree to new evidence
- All names shared at least 5 days in advance
  - Objections due at least 3 days before hearing
- Additional review/comment during 10-day business period
  - Can be shared in pre-hearing meeting or at hearing

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## PREHEARING MEETINGS



- Submit questions/topics to discuss at hearing
- Rule on relevance, evidentiary questions, appropriate phrasing
  - Can ask in hearing for the first time or to reconsider
- Parties and Decision-maker can agree to witness who do NOT need to be present at hearing
- Decision-maker can consult with TIXC and General Counsel
- Prehearing meetings are recorded
- Can be conducted separately, jointly, or as a paper-only exchange

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## HEARING PROCEDURES

- Decision-maker makes determinations on all allegations, including collateral issues outside the Policy
- TIXC present for hearing
- Witnesses don't stay for other parts of hearing
- Hearing Facilitator – logistics, technology, documents, witnesses

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## Investigator presents the report

- Subject to questioning
- Present for entire hearing
- No opinions on credibility, responsibility, etc.




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## TESTIMONY AND QUESTIONING

- All questions must be determined relevant by Decision-maker
- Advisor asks question (while seated), Chair rules on question
  - May invite discussion on relevance
  - No repetitive or abusive questions
  - Rulings on relevance are final
- Issues of bias/conflict of interest
  - Can address, refer to legal counsel or TIXC, preserve for appeal

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## REFUSAL TO SUBMIT TO QUESTIONING

- Cross-examination is all or nothing.
- Must be willing to be questioned AND answer all questions deemed relevant.
  - Or all previous statements excluded
  - Documentary evidence can still be considered
- Cannot draw inferences from absence or refusal to answer
- It's okay if no questions are asked, as long as they're willing to answer
- If an advisor refuses to ask questions or violates rules of decorum, UW will appoint an advisor to ask questions

UPDATE! This provision may be changing, as this section of the regulations was successfully challenged in court in Aug 2021 ([WISC et al v Cardinal](#))

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## Hearings are recorded

- Not deliberations
- No unauthorized recordings
- Can be reviewed, but not copied or shared




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## DELIBERATION

- Closed session
  - Majority vote for panels
- If there's a finding, Decision-maker(s) consider impact statements and prior conduct
  - Recommends sanctions, with input from other administrators
- Written determination within 10 days
  - Rationale, evidence used, credibility assessments, sanctions

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## NOTICE OF OUTCOME



- Shared within 7 business days of Decision-maker Determination
- Review of policies, allegations, notifications, steps taken, etc.
- Findings, rationale, sanctions, remedies
- Appeal procedures, deadlines

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## SANCTIONING CONSIDERATIONS



- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous incidents involving similar conduct
- The need for sanctions/responsive actions to
  - bring an end to the discrimination, harassment, and/or retaliation
  - prevent its future recurrence
  - remedy the effects on the Complainant and the community
- Consistency with existing University policies such as the Student Code of Conduct and Employee Handbook
- The impact on the parties
- Any other information deemed relevant

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### STUDENT SANCTIONS

- Written warning
- Required counseling, assessment, or education
- Probation
- Suspension
  - Transcript Notation
- University Dismissal
- Revocation of Degree
- Organizational Sanctions
- Other actions

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### EMPLOYEE SANCTIONS

• Warning – Verbal or Written	• Demotion
• Performance or Behavioral Improvement Plan/Management Process	• Transfer
• Enhanced supervision observation, or review	• Reassignment
• Required Counseling	• Delay of tenure track progress
• Required Training or Education	• Assignment to a new supervisor
• Probation	• Restriction of stipends, research, and/or professional development resources
• Denial of Pay Increase/Pay Grade	• Suspension with pay
• Loss of Oversight or Supervisory Responsibility	• Suspension without pay
	• Termination
	• Other actions

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### WITHDRAWAL/RESIGNATION WITH CHARGES PENDING

- Process ends with a dismissal because UW lacks jurisdiction
- Not eligible for rehire or admission
- UW will also continue to address and remedy any systemic issues or concerns

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## APPEALS

- Must be requested within 5 days of outcome notice
- Grounds
  - Procedural irregularity that affected the outcome
  - New evidence not reasonably available that could affect the outcome
  - Conflict of interest/bias that affected the outcome
- Responses to appeal(s) within 5 business days
  - Parties, investigator, TIXC, Decision-maker
- Appeal Decision-maker response within 10 business days
  - Notice of Appeal Outcome – remand

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## SANCTIONS DURING APPEALS

- Sanctions are stayed pending the outcome of an appeal
- Supportive measures remain in effect
- If sanctions include separation, holds can be placed on accounts pending the outcome of the appeal
  - Can request holds not be placed – within 2 business days

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## APPEAL CONSIDERATIONS

- Not a full re-hearing – review of written documentation, recordings
- Deferential to original decision – looking for clear errors
- Don't substitute their judgment because they disagree
- Can consult with appropriate administrators/resources
- Outcome is final – one level of appeal only.

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### Failure to comply with sanctions

- Whether by refusal, neglect, or any other reason
- May result in additional sanctions
  - Including suspension, expulsion, and/or termination




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**RECORDS  
ARE KEPT  
FOR 7  
YEARS**




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### Disability Accommodations

- Requests made to TIXC
- Reviewed with UDSS, HR




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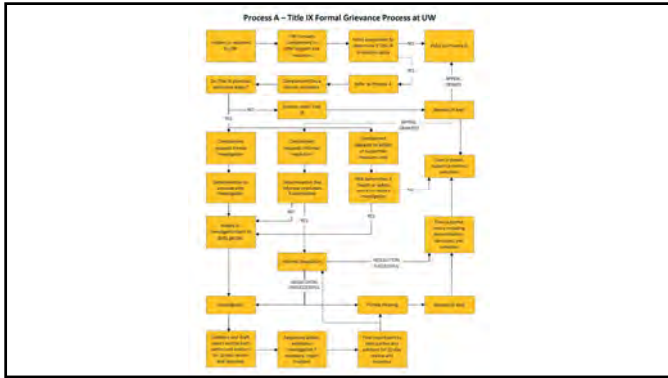
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PROCESS B

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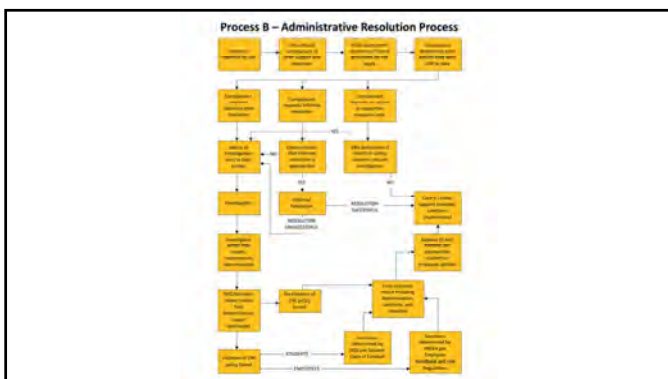
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## INITIAL ASSESSMENT



- Reach out – offer supportive measures, right to advisor
- What type of response do they want?
  - ☐ Supportive response
  - ☐ Informal resolution
  - ☐ Administrative resolution (investigation)
    - Incident
    - Pattern
    - Culture/Climate
- Their wishes are considered, but TIXC determines the type of response

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## TIXC DISCRETION



If the Title IX Coordinator determines at any point during the initial assessment or formal investigation that reasonable cause does not support the conclusion that policy has been violated, the process will end.

The complainant may request the case be re-opened, but the decision is within the TIXC's sole discretion.

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## ADVISORS



- Expected to consult with their advisees without disrupting UW meetings or interviews.
- Advisors do not represent parties in the process.
- Their role is only to advise.

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## RESOLUTION OPTIONS

### Informal Resolution

- Alternative Resolution
  - Informal process
  - Mutually agree to resolve
  - Ex: mediation, restorative practices
  - Not for violent behavior
  - Not appealable
- Respondent accepts responsibility
  - For all – TIXC assigns sanctions
  - For some - Investigation

### Administrative Resolution

- Investigation
  - Written notice
  - 48hr notice before interviews
  - Time frame: 60 business days
  - Investigator makes finding
  - TIXC/Decision-maker must concur and sign

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## DETAILS ABOUT INVESTIGATIONS

- Employees are required to participate/cooperate
- Remote processes are allowed
- No unauthorized recording allowed
- We don't consider character evidence

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## NOTICE OF OUTCOME

- If there is a violation, TIXC and appropriate administrators determine sanctions
- Notification made in writing
- Student sanctions determined by DOS and Student Code of Conduct
- Employee sanctions determined by VP/Dean with HR, other UW Officials

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## WITHDRAWAL/RESIGNATION WITH CHARGES PENDING

### Students

- Process continues despite withdrawal
- Transcript notation – “proceedings in progress”
- Degree not issued pending outcome

### Employees

- Process ends – no jurisdiction
- Not eligible for rehire
- Reference inquiries – “resigned during pending disciplinary matter”

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## Appeals

- Students – per Student Code of Conduct
- Employees – per Employee handbook




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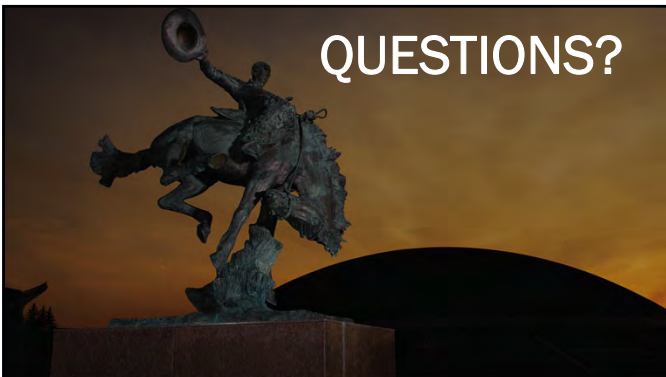
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QUESTIONS?




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