

ADDENDUM A - EMPLOYEE INVESTIGATION PROCEDURES

These procedures are adapted from BOR 4.6.5 Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings and the Human Resources Administrative Practice Manual Prohibition on Discrimination and Harassment.

This procedure establishes minimum procedural standards for investigations and resolutions of alleged Sexual Misconduct violations. The purpose of this procedure is to ensure uniformity in the quality of investigations while providing for due process that affords fairness and equity in all Sexual Misconduct investigations.

The Title IX Coordinator will oversee the grievance procedure for all sexual misconduct reports and complaints in collaboration with the Chief Human Resources Officer, except for Title VII sexual harassment allegations, which will be overseen by the Equal Opportunity Officer.

In accordance with the USG Human Resources Administrative Practices (HRAP) on Cooperation and Internal Investigations, all employees, both parties and non-parties, are required to cooperate to the fullest extent possible in any internal investigation conducted by the Board of Regents or any institution thereof when directed to do so by the persons who have been given investigative authority.

A. Initial Evaluation of Sexual Misconduct Reports

Upon notice of the alleged sexual misconduct the Title IX Coordinator will assess whether a formal investigation, informal resolution, or dismissal would be appropriate. In making this determination, the Coordinator will assess whether the allegation(s), if true, would rise to the level of prohibited conduct, whether a Formal Complaint must be filed, whether an investigation is appropriate in light of the circumstances, whether the parties prefer an informal resolution, and whether any safety concerns exist for the campus community. The need to issue a broader warning to the community in compliance with the Clery Act shall be assessed in compliance with federal law. Additional information on the Initial Evaluation can be found in the Sexual Misconduct Policy.

B. Investigation

Throughout any investigation and resolution proceeding, a party shall receive written notice of the alleged sexual misconduct, shall be provided an opportunity to respond, and shall be allowed the right to remain silent or otherwise not participate in or during the investigation and resolution process without an adverse inference resulting.

If a party chooses to remain silent or otherwise not participate in the investigation or resolution process, the investigation and resolution process may still proceed, and policy violations may still result. A party's choice to remain silent or otherwise not participate will be considered a general denial.

Until a final determination of responsibility, the Respondent is presumed to have not violated the Sexual Misconduct Policy. Prior to the finalization of the investigation report, timely and equal access to information directly related to the allegations that has been gathered during the investigation and may be used at the hearing will be provided to the Complainant, the Respondent, and a party's advisor (where applicable).

Formal civil rules of evidence do not apply to the investigation process, additionally the standard of review throughout the sexual misconduct process is a preponderance of the evidence.

1. The parties shall be provided with written notice of the: report/allegations with sufficient details, pending investigation, possible charges, possible sanctions, available support services and interim measures, and other rights under applicable institutional policies. For the purposes of this provision sufficient details include the identities of the parties involved, if known, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known. This information will be supplemented as dictated by evidence collected during the investigation. The notice should also include the identity of any investigator(s) involved. Notice should be provided via institution email to the party's institution email.
2. Upon receipt of the written notice, the parties shall have at least three business days to respond in writing. In that response, the Respondent shall have the right to admit or deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A Complainant shall have the right to respond to and supplement the notice. Throughout the sexual misconduct process the Complainant and the Respondent shall have the right to present witnesses and other inculpatory and exculpatory evidence.
3. If the Respondent admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved, if appropriate.
4. An investigator shall conduct a thorough investigation and should retain written notes and/or obtain written or recorded statements from each interview. The investigator shall also keep a record of any party's proffered witnesses not interviewed, along with a brief, written explanation of why the witnesses were not interviewed.
5. An investigator shall not access, consider, disclose, or otherwise use a party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional made in connection with the party's treatment unless the party has provided voluntary written consent. This also applies to information protected by recognized legal privilege.
6. The initial investigation report shall be provided to the Complainant, the Respondent, and a party's advisor (if applicable). This report should fairly summarize the relevant evidence gathered during the investigation and clearly indicate any resulting charges or alternatively, a determination of no charges. For purposes of this Policy, a charge is not a finding of responsibility.
7. The Complainant and the Respondent shall have at least 10 calendar days to review and respond in writing to the initial investigation report and directly related information gathered during the investigation. The investigator will review the Complainant's and

the Respondent's written responses, if any, to determine whether further investigation or changes to the investigation report are necessary. Prior to finalizing the investigation report, timely and equal access to information directly related to the allegations that has been gathered during the investigation and may be used at the hearing will be provided to the Complainant, the Respondent, and a party's advisor (where applicable).

8. The final investigation report should be provided to the Complainant, the Respondent, and a party's advisor, if applicable, at least 10 calendar days prior to the Hearing. The final investigation report should also be provided to all Hearing Panel members for consideration during the adjudication process.