

Key Definitions

Advisor

An Advisor is any individual (e.g., parent, friend, administrator, colleague, attorney) who helps a Complainant or Respondent to understand the process and procedure. The Advisor may not represent, advocate, or speak on behalf of a Complainant or Respondent. An Advisor may not disrupt or impede any resolution proceeding.

Appeal Officer

An Appeal Officer is a trained University employee or external professional with decision-making authority for appeals conducted under this Policy.

Complainant

A Complainant is either (i) a student or employee who is alleged to have been subjected to Prohibited Conduct as defined by this Policy, or (ii) a person other than a student or employee who is alleged to have been subjected to Prohibited Conduct as defined by this Policy and who was participating or attempting to participate in a University program or activity (including employment) at the time of the alleged misconduct.

Decisionmaker

The Decisionmaker is the individual who decides whether or not the Respondent engaged in Prohibited Conduct under this Policy. For some processes, the Decisionmaker is the Hearing Officer. In other processes, the Decisionmaker is the Investigator.

Finding

A Finding is a written conclusion by a preponderance of the evidence, issued by an Investigator or Hearing Officer, that the alleged conduct did or did not occur as alleged.

Hearing Officer

A Hearing Officer is a trained University employee or external professional with decision-making authority for hearings conducted under this Policy.

Party/Parties

A Party is a Complainant or Respondent participating in a resolution process. The Parties are the Complainant and the Respondent participating in a resolution process.

Respondent

A Respondent is an individual who is alleged to have engaged in conduct that could constitute Prohibited Conduct under this Policy.

Sanction

A Sanction is one or more of the disciplinary steps that may be imposed on a Respondent who is found responsible for a violation of this Policy. Sanctions or disciplinary steps not listed in the Policy may be imposed in consultation with the Director.

Sanctioning Officer

- For processes involving students, the Sanctioning Officer is the Hearing Officer (in consultation with OSL)
- For processes involving an employee Respondent, the Sanctioning Officer is the Provost or Respondent's Supervisor (in consultation with HR)
- For processes with a 3rd-party Respondent, the Sanctioning Officer is the Director

Support Person

A Support Person is an individual who provides emotional support to a Complainant or Respondent during the course of a resolution process. A Support Person may not represent, advocate, or speak on behalf of a Complainant or Respondent and may not disrupt or impede any resolution proceeding. In compliance with FERPA, a Support Person may only accompany a Complainant and Respondent during resolution processes that do not involve a student as a Party.

Witness

A Witness is an individual who may have information relevant to a report of Prohibited Conduct. A witness may be a student, an employee, or a third party.

1 Incident

An incident of misconduct occurs (on or off campus) that may fall under the Sex-Based or Other than Sex-Based policies.

2

Incident Report

The incident is reported to the EO/TIX Office (via Maxient Report, email, phone call, or drop-in) by a Responsible Employee, witness, involved party, or reported anonymously (via EthicsPoint).

3

EO/TIX Outreach

The EO/TIX Office sends up to **3 outreach letters** via email to the Complainant and invites them to meet with the EO/TIX Office to discuss supportive measures and next steps. **This meeting is optional.**

4

Intake Meeting

The Complainant meets with a member of the EO/TIX team either virtually or in-person. The Complainant can choose to share additional information about the report. The EO/TIX team member will share information about the potential resolution options and supportive measures available through the office.

Investigation Process

Considered 'Formal Resolution'

Resolution Agreement

Considered 'Informal Resolution'

A Resolution Agreement is a process where the Complainant and Respondent each voluntarily agree to resolve the complaint in a way that does not include an investigation, and does not include any finding of responsibility

Support-Based Resolution

A support-based resolution is an option when a Complainant does not wish the University to take any further steps to address their concern and the Director determines that another form of resolution, or further action, is not required. A support-based resolution does not preclude later use of another form of resolution. An example is if new information becomes available to the University, and the Director determines there is need for additional steps to be taken, or the Complainant later decides to pursue a Resolution Agreement or investigation.

Examples of supportive measures include:

- Email communication to faculty or supervisor(s)
- Mutual no-contact directives between parties
- Exploring adjustments or changes to course schedules
- Exploring changes in living and working arrangements
- Connecting to campus resources (CAPS, CSS, Wellness Center, etc.)

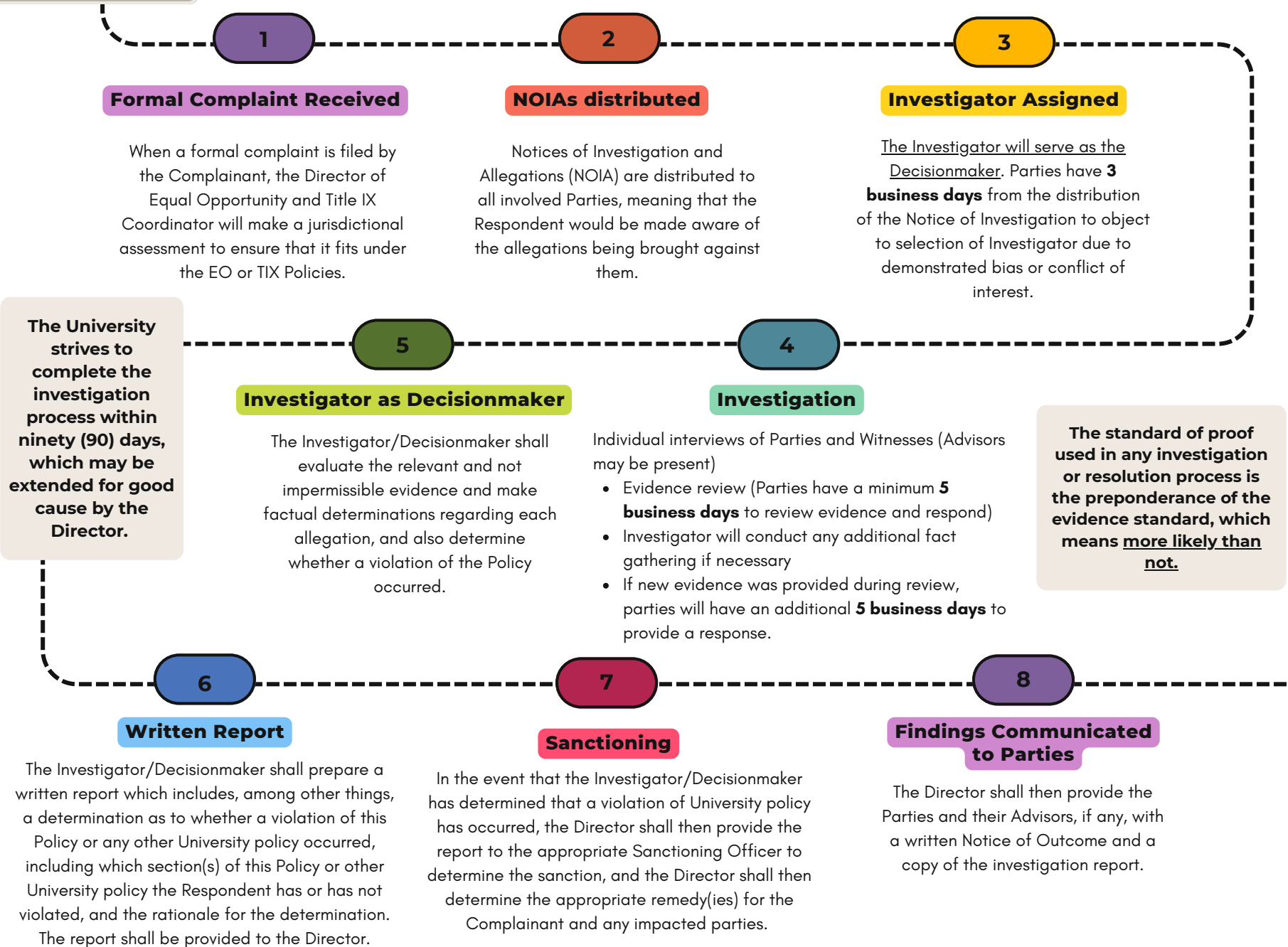
Understanding the EO/TIX Process

Learn more at the
SCU EO/TIX website:
<https://www.scu.edu/title-ix/>

Formal Resolution Process

Employee Cases (Other than Sex-Based)

See Pages 20-26 of the Other than Sex-Based Policy.



Formal Resolution Process

Student Cases (Other than Sex-Based)

See Appendix B of the Other than Sex-Based Policy.

1

Formal Complaint Received

When a formal complaint is filed by the Complainant, the Director of Equal Opportunity and Title IX Coordinator will make a jurisdictional assessment to ensure that it fits under the EO or TIX Policies.

2

NOIAs distributed

Notices of Investigation and Allegations (NOIA) are distributed to all involved Parties, meaning that the Respondent would be made aware of the allegations being brought against them.

3

Investigator Assigned

Parties have **3 business days** from the distribution of the Notice of Investigation to object to selection of Investigator due to demonstrated bias or conflict of interest.

4

Investigation

Individual interviews of Parties and Witnesses (Advisors may be present)

- Evidence review (Parties have a minimum **5 business days** to review evidence and respond)
- Investigator will conduct any additional fact gathering if necessary
- If new evidence was provided during review, parties will have an additional **5 business days** to provide a response.

7

Notice of Hearing

Each Party shall be provided with a Notice of Hearing, which includes information regarding the date of the hearing, the process to be used at the hearing, of Witnesses, or questions to be reviewed by the Hearing Officer to ensure they are relevant to the allegations

6

Hearing Officer Appointed

The Hearing Officer who will determine whether a violation of this Policy or other University policy has occurred. The Hearing Officer shall be an individual other than the Investigator or Director. Within **3 business days** of receipt of the Notice of Hearing, parties can object to the Hearing Officer due to bias or conflict of interest.

5

Investigative Report

Investigator will prepare a written report (Investigation Report) summarizing all of the relevant evidence gathered and all steps taken during the investigation process. This report is made available to each Party and their Advisor. Each Party shall have **10 days** to provide a response.

The standard of proof used in any investigation or resolution process is the preponderance of the evidence standard, which means more likely than not.

8

Pre-Hearing

Parties who wish to call Witnesses must submit the name(s) at least **7 business days** in advance of hearing. A list of approved Witnesses will be provided to Parties at least **5 business days** in advance. Parties must submit questions to Hearing Officer **3 business days** in advance.

9

Hearing

Present: Hearing Officer, Hearing Facilitator, Parties, Advisors, Witnesses (if any)

- Introductory statements from each Party
- Hearing Officer calls Parties and Witnesses for questioning
- Each party can submit follow-up written questions to Hearing Officer to pose to the other Party or witnesses
- Each party can provide a closing statement

10

Written Determination Report/Sanctioning

Following the hearing, the Hearing Officer shall prepare a written determination report. All Findings shall be made by a preponderance of the evidence, meaning more likely than not.

11

Findings Communicated to Parties

The Director will communicate the findings to each Party and their Advisor (should the Party wish the Advisor to receive it), along with a copy of the Hearing Officer's written determination report and the procedures for appeal (see Appeal Flowchart).

The University strives to complete the investigation process within ninety (90) days from the date of the Notice of Investigation, and complete the hearing within sixty (60) days of completion of the Investigation Report.

Appeals (All Processes)

See Pages 27-29 of the of the Other than Sex-Based Policy.

See Pages 35-36 of the SCU Sex-Based Policy.

1

Appeal Filed

An appeal regarding the outcome of an investigation or investigation and hearing may be filed by either the Complainant or the Respondent. An appeal must be in writing and sent to the Director within **5 business days** following the issuance of the written outcome notice.

2

Parties Notified of Appeal

Within **3 business days** of the Director's receipt of the appeal, the Director will provide written notification to the other Party of the appeal, along with a copy of the filed appeal.

3

Response to Appeal

The other Party will have **5 business days** to respond in writing to the appeal. The response to the appeal shall be sent to the Director. Any Party's decision not to submit a reply to an appeal is not evidence that the non-appealing Party agreed with the appeal.

5

Grounds for Appeal

Appeals may be filed only on the following four grounds:

1. Procedural Error
2. New Evidence
3. Actual Conflict of Interest
4. Disproportionate Sanctions

4

Appeal Officer Appointed

The Director will appoint an Appeal Officer and will notify the parties of the appointment in writing. Within **3 business days** of notification of the identity of the Appeal Officer, either Party may object in writing to the Appeal Officer's selection on the basis of bias or conflict of interest.

6

Determination

The Appeal Officer will determine, based on a preponderance of the evidence, whether any grounds for the appeal are substantiated.

7

If substantiated...

- Return the matter to the Investigator, Decisionmaker, or Sanctioning Officer to correct a procedural error or reconsider new evidence;
- Appoint an alternative Decisionmaker or Sanctioning Officer to reconsider the case; and/or
- Following consultation with the Director, revise the Sanction if the Appeal Officer concludes that the original Sanction is disproportionate to the outcome.

8

Notification

The Appeal Officer will notify the Parties in writing of the Appeal Officer's determination regarding the appeal, along with a rationale for the decision. The determination will be sent within **10 days** of the receipt of the non-appealing Party's response statement.

The Appeal Officer's decision is final and not subject to appeal

The appeal process is through written submissions only, and no hearing is held. Appeals are not intended to be a full rehearing of the complaint.

Other Important Process Information

*What falls under Federal IX?

Sexual Harassment (Under 2020 Title IX Regulations), sometimes referred to as the **"Narrow IX"**

- Any of the following offenses:
 - An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity;
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
- That occurred **on or after August 14, 2020**; and
- That occurred either on campus, on any University-owned or leased property, or in a building owned or controlled by an officially recognized University organization, and/or in a University program or activity; and
- That occurred to a Complainant who was participating in or attempting to participate in a University program or activity in the United States or was an applicant to, or employee of, the University.

Factors Considered with Sanctioning

Factors that may be considered when determining a sanction/corrective action include:

- The nature, severity of, and circumstances surrounding the violation.
- The Respondent's disciplinary history.
- Previous grievances or allegations against the Respondent involving similar conduct.
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, or retaliation.
- The need for sanctions/corrective actions to prevent the future recurrence of discrimination, harassment or retaliation.
- The need to remedy the effects of the discrimination, harassment or retaliation on the victim and the campus community.

Student Sanctions

Possible sanctions/corrective actions for student Respondents include, but are not limited to:

- Verbal or written warning
- Educational sanctions
- Contributed service
- Restitution
- Fines
- Loss of privileges
- No contact directive
- Disciplinary probation
- Deferred suspension
- Interim suspension
- Suspension
- Expulsion

Employee Sanctions

Possible sanctions/corrective actions for faculty or staff Respondents include, but are not limited to:

- Verbal or written warning
- Performance improvement plan or process
- Enhanced supervision or review
- Required training or education
- Probation
- Denial of pay increase
- Removal of supervisory or other oversight responsibility
- Demotion
- Transfer
- Reassignment
- Delay of tenure track progress
- Restrictions on stipends, research, and/or professional development resources
- Suspension with pay
- Suspension without pay
- Revocation of tenure
- Termination

At Sanctioning Phase:

- **Human Resources will be consulted for Staff Respondents.**
- **Provost will be consulted for Faculty Respondents.**