

**SOUTHERN METHODIST UNIVERSITY
GOVERNANCE AND POLICY MANUAL**

**POLICY 2.5.1
INTERIM TITLE IX HARASSMENT**

APPLICABILITY: All Administrators, Faculty, Staff, Students and Visitors

RESPONSIBLE OFFICIAL: Associate Vice President & Executive Assistant to the President for Institutional Access and Equity (X 8-3601)

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Section 1. APPLICATION

This policy applies exclusively to allegations of sexual harassment, including sexual violence and gender-based harassment. Other forms of harassment and discrimination are handled under Policy 2.8, University Grievance Policy and Procedures.

Section 2. POLICY AGAINST TITLE IX HARASSMENT IN EMPLOYMENT AND EDUCATION PROGRAMS

2.1. Prohibition of Title IX Harassment

The policy of Southern Methodist University is to comply with Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106. SMU expressly prohibits sexual harassment, including sexual violence, and gender-based harassment against

- a. its students, faculty, and staff;
- b. applicants who seek to join the SMU community in any capacity; and
- c. visitors participating in the educational activities or programs of the University.

Sexual harassment and gender-based harassment violate Title IX. University personnel must maintain an academic and work environment that is free of such harassment. The University will take immediate and appropriate corrective action where such harassment occurs, and in such cases, members of the University community are encouraged to consult immediately with the Title IX Coordinator or a Deputy Title IX Coordinator.

2.2 Prohibition of Retaliation

Retaliation is a violation of SMU's Title IX harassment policy. University policy prohibits any member of the University community--staff, members of the faculty, students or visitors participating in the educational activities or programs of the University -- from retaliating in any way against a person because that person has raised allegations of harassment prohibited by Title IX. It is a violation of this policy to retaliate against any person who has exercised the right to file a formal or informal Title IX harassment complaint, used any of the processes provided by SMU, cooperated with an investigation, or testified or otherwise offered evidence connected to a complaint. A complaint's actual or perceived lack of merit does not excuse retaliatory conduct. Any person who observes retaliation should promptly notify the Title IX Coordinator.

Section 3.0 PURPOSE OF POLICY

The purpose of this policy is to promote an academic and work environment that is free of sexual harassment, including sexual violence, and gender-based harassment by providing a means for addressing complaints of such harassment. The University has designed this policy to ensure a safe, non-harassing environment for its students, faculty, staff, and other members of the University community. The University does not intend for this policy to infringe upon any First Amendment or academic freedom protections available to members of the University community.

Section 4.0 INQUIRIES CONCERNING TITLE IX COMPLIANCE

Inquiries concerning Title IX compliance should be referred to the Associate Vice President, Office of Institutional Access and Equity, who serves as SMU's Title IX Coordinator. The name of that official is as follows:

Section 4.0 INQUIRIES CONCERNING TITLE IX COMPLIANCE

Inquiries concerning Title IX compliance should be referred to the Executive Director, Office of Institutional Access and Equity, who serves as SMU's Title IX Coordinator. The name of that official is as follows:

Ms. Samantha Thomas
Title IX Coordinator
Executive Director for Access and Equity and
Executive Assistant to the President
Office of Institutional Access and Equity
204 Perkins Administration Building
6425 Boaz Lane
P.O. Box 750200
Dallas, Texas 75275-0200
Phone: 214-768-3601
FAX: 214-768-2101
Email: thomassa@smu.edu
Web: <http://smu.edu.iae/>

Duties: In addition to the specific duties set forth in this policy, the Title IX Coordinator is charged with the responsibility of oversight of all Title IX claims.

Deputy Title IX Coordinators include:

Ms. Carolyn Hernandez
Director and ADA/504 Coordinator
Office of Institutional Access and Equity
204 Perkins Administration Building
6425 Boaz Lane
P.O. Box 750200
Dallas, Texas 75275-0200

Phone: 214-768-3601
FAX: 214-768-2101
Email: hernandez@smu.edu
Web: <http://smu.edu.iae/>

Ms. Denise Gauthier
Assistant Director
Office of Institutional Access and Equity
204 Perkins Administration Building
6425 Boaz Lane
P.O. Box 750200
Dallas, Texas 75275-0200
Phone: 214-768-3601
FAX: 214-768-2101
Email: dgauthier@smu.edu
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Ms. Monique Holland
Senior Associate Athletics Director/Senior Woman Administrator
Department of Athletics
Lloyd All-Sports Center
P. O. Box 750315
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Ms. Marci Armstrong, Ph.D.
Associate Dean, Graduate Programs
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Mr. Martin L. Camp
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SMU Dedman School of Law
3315 Daniel Avenue
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Tel. 214-768-4178
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Ms. K. JoAnne Knight
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SMU in Taos
P.O. Box 750145
6580 Highway 518
Ranchos De Taos, New Mexico 87557-9796
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Email: kimberleyjoa@smu.edu

With the exception of Ms. Holland, each of the above named Deputy Title IX Coordinators has University-wide responsibility for investigating Title IX claims and reporting the results of their investigations to the Title IX Coordinator. Ms. Holland does not investigate Title IX complaints arising within the Athletics Department, but otherwise has responsibility for investigating Title IX claims and reporting the results of her investigations to the Title IX Coordinator.

Section 5.0 Definitions AND EXAMPLES

5.1. Definitions.

As used in this policy, the following terms have the meaning indicated:

- 5.1.1. “Appropriate University Officer” means the officer at SMU responsible for the office, school, college, or other administrative unit with direct supervisory authority over the faculty or staff employee and his or her designee and any successors.
- 5.1.2. “Complainant” means the person (including, in certain circumstances, the University) filing a report or complaint of Title IX harassment with the Title IX Coordinator or a Deputy Title IX Coordinator.
- 5.1.3. “Conduct Liaison” means a volunteer University faculty or staff member trained in the student conduct review process who may be assigned to either complainant or respondent to assist as a neutral source to answer questions about the process.
- 5.1.4. “Conduct Officer” means the University staff member trained in the student conduct review process.
- 5.1.5. “Day” means a business day, unless otherwise specifically indicated.
- 5.1.6. “Dean of Student Life” means the person who holds the title of Dean of the Office of Student Life at SMU or his or her designee and any successors.

- 5.1.7 “Gender-based harassment” means acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.
- 5.1.8. “Member of the faculty” or “faculty member” or “faculty” means the president, provost, associate provosts, deans of the schools and colleges, professors, associate professors, assistant professors, instructors, lecturers, adjunct professors, emeritus professors, visiting professors, and scholars (writers, composers, artists, executives, and the like) -in-residence, teaching assistants in their teaching capacity, and others who are recognized under the University’s Bylaws or policies or both as members of the SMU Faculty.
- 5.1.9. “Respondent” means the person who is alleged to have engaged in the discriminatory conduct as set forth in the report or complaint filed with the Title IX Coordinator.
- 5.1.10. “Sex discrimination” means giving preferential treatment to one gender to the disadvantage of the other because of his or her gender. It may occur also when policies or practices are facially neutral, but have a disproportionately adverse impact on a particular gender when applied.
- 5.1.11. “Sexual harassment” is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when –
- a. submission to such conduct is made either an explicit or an implicit term or condition of an individual’s employment, academic evaluation or advancement, or status in a course, program or activity of the university;
 - b. submission to or rejection of such conduct by an individual is used as a basis for academic or employment decisions affecting such individual; or
 - c. such conduct has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment or unduly interfering with an individual’s work or academic performance. For purposes of this policy, “undue interference” is defined as improper, unreasonable or unjustifiable behavior going beyond what is appropriate, warranted or natural.

Sexual harassment includes two categories:

“Hostile environment sexual harassment” means verbal, physical or visual forms of harassment that are sexual in nature, “sufficiently severe, persistent, or pervasive” and unwelcome. A single, severe incident, such as a sexual assault, could create a hostile environment. A "hostile environment" is often created by a series of incidents.

“Quid pro quo sexual harassment” means "this for that." An example of this form of sexual harassment occurs if a member of the faculty (or staff member) stipulates that one’s grade or performance rating (or participation on a team, in a play, etc.) will be based on whether one submits to unwelcome sexual conduct. Whether one refuses a sexual demand or submits to it is not relevant; the conduct violates the law.

5.1.12. As used in this Policy, the term “Title IX harassment” includes sexual harassment, gender-based harassment, and sexual violence.

5.1.13. “Sexual Violence” means a physical sexual act perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment prohibited by Title IX and this Policy

5.1.14. “Staff Member” or “Staff” means a salaried or hourly person employed by the University, exclusive of members of the faculty and students.

5.1.15. “Title IX Coordinator” means the Associate Vice President, Office of Institutional Access and Equity and his or her designees and any successors.

5.1.16. “University” refers to Southern Methodist University (“SMU”).

5.2. Examples.

If sufficiently severe or pervasive, the following types of actions serve as non-exhaustive examples of Title IX harassment prohibited by this Policy:

5.2.1. physical sexual acts perpetrated

a. against a person’s will or

- b. where a person is incapable of giving consent due to that person's use of drugs or alcohol or due to an intellectual or other disability;
- 5.2.2. direct or implied statements, threats, or demands for sexual favors, sexual advances, accompanied by implied or actual promises of preferential treatment for submission to such demands; or implied or actual threats that failure to submit to such demands may result in adverse treatment concerning the person's admission, enrollment, employment, work status, promotion, grades or recommendation;
- 5.2.3. persistent, unwelcome flirtation, requests for dates, repeated and unwanted staring, advances or propositions of a sexual nature;
- 5.2.4. gratuitous displays of sexually suggestive objects or pictures, including images displayed, transferred, forwarded or shared via the internet, text messaging or other electronic means;
- 5.2.5. a pattern of conduct unrelated to an academic course or the requirements of the workplace intended to cause discomfort or humiliation or both that includes one or more of the following:
 - a. comments of a sexual nature;
 - b. sexually explicit statements, questions, jokes, anecdotes or gestures;
 - c. a pattern of conduct that would cause discomfort or humiliation, or both, to a reasonable person to whom the conduct is directed and that includes one or more of the following:
 - (1) unnecessary touching, such as patting, pinching, hugging or repeated brushing against a person's body;
 - (2) remarks of a sexual nature about a person's clothing or body; or
 - (3) remarks about sexual activity or speculations about previous sexual experience.
- 5.2.6. Treating individuals adversely because they do not conform to stereotypical norms of feminine or masculine gender behavior.
- 5.2.7. Acts of Title IX harassment may take many different forms. Examples include the following:

- a. direct threats and other verbal statements;
- b. email or other electronic messages;
- c. physical contact;
- d. jokes;
- e. gestures; and
- f. pictures or other visuals.

5.2.8. Harassment that violates this Policy goes beyond the mere expression of views or thoughts (spoken or written) that an individual may find offensive. The conduct must be sufficiently severe or pervasive as to limit unlawfully an individual's ability to participate in or benefit from the activities of SMU. Further, one must evaluate such conduct from the perspective of a reasonable person in the alleged victim's position, taking into account the totality of the circumstances involved in a particular matter.

Section 6.0 ISOLATED AND INADVERTENT OFFENSES

- 6.1. Members of the University community demonstrate insensitivity that necessitates remedial measures when, without establishing a pattern of doing so, they engage in isolated conduct that may give rise to acts of sexual harassment. When University officials become aware that such conduct has occurred or is occurring in their areas, they should direct those engaged in such conduct to undertake Title IX training and, in consultation with the Title IX Coordinator, document the incident and submit the documentation to the Title IX Coordinator.
- 6.2. After participating in the Title IX training or after failing or refusing to participate after being directed to do so, a person continues to engage in the conduct, the appropriate University official shall report the facts and circumstances to the Title IX Coordinator. The Title IX Coordinator shall act on the matter in accordance with Section 8 of this Policy 2.5.1.

Section 7.0 CONSENSUAL RELATIONSHIPS

Relationships that begin as consensual have the potential to evolve into sexual harassment, particularly with regard to faculty-student and staff-student relationships, as well as in supervisor-subordinate relationships. SMU urges the University community to consult Policy 2.5 B, Consensual Sexual Relationships, before engaging in a consensual sexual relationship with another member of the SMU community.

Section 8.0 GRIEVANCE PROCEDURES FOR ALLEGED VIOLATIONS OF SMU'S POLICY AGAINST TITLE IX HARASSMENT

8.1. Relationship to Other SMU Policies.

Any person -- staff, students, faculty, applicants, all other members of the SMU community, and visitors participating in the educational activities or programs of the University -- wishing to file a complaint of Title IX harassment must follow the procedures set forth in this Policy. To the extent that Policy 2.8 (University Grievance and Policy Procedure), the Student Conduct Code, the University Conduct Review Process, or Policy 6.16 (Procedural Standards for Faculty Dismissals and Sanctions) conflict with this Policy, the procedures set forth in this Policy take precedence.

8.2. General Provisions

The following provisions apply to all complaints for Title IX harassment.

8.2.1. Applicability to Off-Campus University Activities and Programs

Academic and work relationships at SMU occasionally extend beyond the physical university site and beyond university work hours. Evidence of sexual harassment may thus include functions and events under the aegis of SMU occurring off-campus and after hours.

8.2.2. Confidentiality

8.2.2.1. SMU considers complaints of Title IX harassment, their investigation, and related proceedings to be confidential. SMU will use its best efforts not to disseminate information concerning an allegation of Title IX harassment beyond those necessary for its investigation and handling by the University. Release of confidential information to the public will be authorized only by the President or his or her designee.

8.2.2.2. SMU will investigate allegations of Title IX harassment and take corrective action, if appropriate, in those circumstances where the complainant does not wish to pursue these procedures or corrective action. A complainant's desire for anonymity or inaction may hinder SMU's investigation of a Title IX harassment complaint.

8.2.2.3. Nothing in this confidentiality policy precludes or limits the responsibility and authority of the central administration and the

SMU Board of Trustees to take actions that they deem necessary to protect students, faculty, and staff of SMU.

8.2.3. Sexual Violence

SMU encourages students subjected to sexual violence promptly to seek medical assistance and counseling and to report the incident to the SMU Police Department and the Title IX Coordinator as soon as possible.

8.2.4. Evidentiary Standard

A preponderance of evidence standard is the standard that must be used in any investigation, hearing, or appeal of a decision regarding a complaint of Title IX harassment. This standard requires a showing that it is more likely than not that Title IX harassment occurred.

8.2.5. Examination of Witnesses

The complainant and the respondent may not personally question or conduct a cross-examination of the other party during any investigation, hearing, or appeal.

8.2.6. Records

Except as otherwise stated in this Policy, the Office of Institutional Access and Equity is the repository of all records of Title IX harassment complaints and their investigation and internal adjudication. The Office of Institutional Access and Equity shall receive and maintain all such records.

8.2.7. Sequencing of Criminal Investigations of Allegations of Sexual Violence

A complainant alleging sexual violence may simultaneously pursue a criminal complaint with the appropriate law enforcement agency and file a complaint for Title IX harassment with the Title IX Coordinator. In this circumstance, SMU will continue to process and investigate complaints alleging sexual assault, and in such a case, SMU will not delay its handling of a complaint of sexual violence until the commencement or conclusion of a criminal investigation or proceeding. Notwithstanding the foregoing, at the request of law enforcement authorities, SMU may temporarily delay its processing of the complaint while law enforcement authorities gather evidence concerning the allegation of sexual assault.

8.2.8. Interim Protective Steps

8.2.8.1. In its discretion, pending the investigation, hearing, or appeal of a complaint for Title IX harassment, SMU may take interim steps to protect the complainant, as well as other members of the SMU community.

8.2.8.2. By way of illustration, SMU -

- a. may issue a “no contact” order prohibiting one party from having conduct with another,
- b. may direct the lateral transfer of Staff or move a student to another classroom setting;
- c. make arrangements for academic and employment evaluations;
- d. at any time during or after an investigation or hearing of a Title IX harassment complaint against a member of the faculty or teaching assistant (acting in a teaching capacity), the Provost (or his or her designee) may place the member of the faculty or teaching assistant on administrative leave from teaching responsibilities if the Provost reasonably believes that –
 - (1) the alleged harassment has occurred and
 - (2) the respondent would be in a position to do harm to members of SMU community if the respondent continues to teach a class. Such leave may be with pay and all benefits in place.
- e. at any time during or after an investigation or hearing of a Title IX harassment complaint against a Staff Member, the Appropriate University Officer responsible for the unit employing the respondent may place the Staff Member on administrative leave from employment responsibilities if the Vice President reasonably believes that –
 - (1) the alleged harassment has occurred and
 - (2) the respondent would be in a position either to retaliate against, or in any way do harm to, members of SMU community if the respondent continues to

work in that unit or department. Such leave may be with pay and all benefits in place.

- f. at any time during or after an investigation or hearing of a Title IX harassment complaint against a student, the Vice President of Student Affairs or his or her designee may restrict a student-respondent from attendance at one or more classes or restrict the student-respondent from living in campus housing or otherwise prohibit the student-respondent's presence on the SMU campus, as deemed appropriate and necessary.

8.2.9. Support

8.2.9.1. Any person found to have been subjected to Title IX harassment may receive counseling and academic support services. Such services are available also to others affected by Title IX harassment, including the person alleged or found to have engaged in harassment. To obtain information about University counseling and academic support services, please contact the Title IX Coordinator.

8.2.9.2. Male and female students affected by Title IX harassment may also arrange confidential crisis counseling with the Director of the Counseling and Psychiatric Services (CAPS) Department of the SMU Health Center. Confidential crisis counseling for male and female faculty and staff may also be arranged through the Director of CAPS.

8.2.9.3. The Director of Counseling and Psychiatric Services is also available to accompany to the hospital students who report that they have been sexually assaulted, if desired. A medical examination will help preserve important evidence of sexual violence if the person who alleges sexual violence decides later to prosecute or to file a complaint for Title IX harassment.

8.2.10. Extensions of Time

At his or her discretion, the Title IX Coordinator may extend for a reasonable period any of the deadlines set forth in this Policy.

8.2.11. False Accusations

A false complaint of Title IX harassment can place a permanent stigma on a member of the SMU community and other persons, regardless of the ultimate outcome of any investigation. Accordingly, SMU prohibits false accusations of Title IX harassment; false complaints of Title IX harassment are a violation of University policy. At the conclusion of SMU's Title IX harassment complaint procedures, and if it appears reasonably likely that a complainant and others acted in bad faith or deliberately and knowingly filed a false complaint or provided false testimony, the respondent, as well as the appropriate University officials, may seek redress against the complainant and others through appropriate University channels.

8.3. General Procedures

The following procedures apply to all complaints filed under this Policy.

8.3.1. Reporting Title IX Harassment

8.3.1.1. Any person who believes that he or she is being, or has been, subjected to Title IX harassment (excluding sexual violence) is encouraged to file a report of the alleged act of discrimination promptly. Acts of Title IX harassment prohibited by this Policy must be reported within 180 calendar days of the date of the act. If the person believes that he or she is being subjected, or has been subjected to, recurring instances or patterns of Title IX harassment, the person shall report the conduct to the Title IX Coordinator within 30 days of the date of last incident of the alleged act of Title IX harassment. Any such person may also report the incident to

- a. his or her immediate supervisor,
- b. department chair,
- c. academic advisor, or
- d. residence hall director

as appropriate, who must promptly notify and consult with the Title IX Coordinator.

8.3.1.2. Any person who believes that he or she is experiencing, or has been subjected to, sexual violence should report the incident as promptly as possible. A person may report the sexual violence to any one or more of the following:

- a. University Police Department,
- b. the Office of the Dean of Student Life,
- c. the Title IX Coordinator, or
- d. the Director of Counseling and Psychiatric Services.

With the exception of licensed physicians and psychologists who have a legal duty to maintain confidentiality, all individuals shall promptly report the incident to the Title IX Coordinator. Except for privileged communications, reports to any person other than the Title IX Coordinator must be forwarded to the Title IX Coordinator.

8.3.2. Complaint

8.3.2.1. Any person who believes that he or she is being, or has been, subjected to Title IX harassment (excluding sexual violence) is encouraged to file a complaint of the alleged act of discrimination promptly. Acts of Title IX harassment prohibited by this Policy must be reported within 180 calendar days of the date of the act. If the person believes that he or she is being subjected, or has been subjected to, recurring instances or patterns of Title IX harassment, the person shall file a complaint about the conduct to the Title IX Coordinator within 30 days of the date of the last incident of the alleged act of Title IX harassment. Any such person may report the incident also to

- a. his or her immediate supervisor,
- b. department chair or advisor, or
- c. residence hall director

as appropriate, who must promptly notify and consult with the Title IX Coordinator.

8.3.2.2. At its discretion, in the absence of a complaint for sexual harassment, SMU may refer a Title IX harassment matter to the Title IX Coordinator for investigation without the filing of a complaint for Title IX harassment.

8.3.3. Informal Resolution

8.3.3.1 The Title IX Coordinator may attempt an informal resolution or mediation of the complaint and consult as necessary with the complainant, respondent, immediate supervisor, appropriate vice president, department chair, advisor or other members of the University community (or their designees).

8.3.3.2 Sexual violence complaints are not subject to mediation.

8.3.4. Investigation

8.3.4.1 Upon receipt of a written complaint, the Title IX Coordinator shall interview the complainant and the respondent separately. The complainant and the respondent each may choose one person from SMU to accompany him or her to this meeting. These meetings shall occur within 10 days of the date of receipt by the Title IX Coordinator of the written complaint.

8.3.4.2 The Title IX Coordinator shall interview other individuals and obtain other documents and things necessary to ascertain the validity of the complaint. The investigation shall proceed in a timely manner, and the Title IX Coordinator must conclude the investigation within 20 days of the date of receipt by the Title IX Coordinator of the written complaint. To the fullest extent possible within the requirements of conducting a complete investigation, each individual who is contacted or interviewed during the review and investigation of the complaint must maintain the confidentiality of the complaint and investigation.

8.3.4.3 Within 10 days of the date of the conclusion of the investigation, the Title IX Coordinator shall prepare a written report of investigation for distribution as set forth below.

8.4. Specific Procedures for Complaints Filed Against Staff.

For complaints filed against Staff Members, the Title IX Coordinator shall provide the complaint and a written report of the investigation to the Appropriate University Officer. The Appropriate University Officer shall decide what corrective action, if any, is necessary in response to the complaint in consultation with the Title IX Coordinator.

8.4.1. Corrective Action

8.4.1.1 Depending on the severity of the offense, corrective action may include one or more of the following non-exclusive list of actions:

- a. A documented verbal warning to the Staff Member that a repetition of the reported behavior will result in written action;
- b. Counseling;
- c. Training;
- d. The placement of a letter in the Staff Member's personnel file indicating the nature of the improper behavior. The letter may include a notation about required counseling and any action that will be taken in the future should reported conduct occur again;
- e. The removal of the Staff Member from the work unit and placement on a leave of absence to permit the Staff Member to receive appropriate counseling; and
- f. Initiation of formal action by the University to dismiss the Staff Member.

8.4.1.2 The Title IX Coordinator shall be copied on all disciplinary and other documents associated with the complaint and shall notify the complainant and the respondent in writing of the outcome of the investigation and, as applicable, the corrective action taken by the University. The Title IX Coordinator shall advise the complainant and the respondent of the right of each party to request in writing a grievance hearing concerning the decision of the Appropriate University Official, as set forth in Section 8.4.2.

8.4.2 Hearing Procedures

Within ten days of the date of his or her receipt from the Title IX Coordinator of written notice of the Appropriate University Officer's decision, the complainant and the respondent each may make a written request for a grievance hearing concerning the decision of the Appropriate University Officer. Sections 2.8.C.4. and 2.8.D of SMU Policy 2.8, University Grievance Policy and Procedure, will govern the procedures for the grievance hearing requested by either party.

8.5. Specific Procedures for Complaints Filed Against Students.

For complaints against students, the Title IX Coordinator shall submit the complaint and a written report of investigation to the Office of the Dean of

Student Life. Within 10 days of the date of receipt of the complaint and report from the Title IX Coordinator, the Office of the Dean of Student Life shall refer the complaint to the University Conduct Review Process, as set forth below, upon either student's request if the complaint has not been resolved administratively by the Title IX Coordinator.

In the event that the Office of the Dean of Student Life receives a report or complaint of Title IX harassment, the Office of the Dean of Student Life shall refer the report or complaint to the Title IX Coordinator.

8.5.1. Initiation of the Student Conduct Review Process for Allegations of Title IX Harassment

The referral by the Office of the Dean of Student Life of a complaint for Title IX harassment to a Conduct Officer initiates the University Conduct Review Process.

8.5.1.1 Notification of the Conduct Officer Hearing

8.5.1.1.1 No less than four days prior to the hearing, the Office of the Dean of Student Life shall provide to the complainant and the respondent a written Notification of Conduct Officer Hearing, which shall include the date, time, and location of the hearing, taking into account the class schedule of each party. The Office of the Dean of Student Life shall provide a copy of the Notice to the Title IX Coordinator.

8.5.1.1.2 The Office of the Dean of Student Life shall provide the Notice of the Conduct Officer Hearing to the complainant and the respondent via –

- a. email,
- b. courier, or
- c. First Class U.S. Mail, postage prepaid.

For students, the Office of the Dean of Student Life shall use the email and local mailing address listed on record with the University Registrar's Office.

8.5.1.2. The Notice of Alleged Violation(s)

8.5.1.2.1 No less than four days prior to the hearing, the Office of the Dean of Student Life shall provide to the respondent a written Notice of Alleged Violation(s), which shall include

- a. a brief description of the incident(s),
- b. date(s) of the incident(s), and
- c. the alleged violation(s) of University policy.

The Office of the Dean of Student Life shall also provide a copy of the Notice of Alleged Violation(s) to the complainant and the Title IX Coordinator.

8.5.1.2.2 The Office of the Dean of Student Life shall provide the Notice of Alleged Violation(s) via –

- a. email,
- b. courier, or
- c. First Class U.S. Mail, postage prepaid.

If notice is provided to a student by U.S. Mail, the Office of the Dean of Student of Life shall use the local mailing address on file with the University Registrar's office.

8.5.1.2.3 With the written agreement of both the complainant and the respondent and at the discretion of the Conduct Officer, the Conduct Officer may waive the four days notification required for the Notice of Conduct Officer Hearing and the Notification of Alleged Violation(s). The Conduct Officer shall inform the Title IX Coordinator of any waiver of notice by either party.

8.5.2. Conduct Officer Hearing

8.5.2.1 The Conduct Officer shall meet with the complainant and the respondent to discuss the complaint; at his or her discretion, the Conduct Officer may meet with the complainant and the respondent separately. For complaints alleging sexual assault or violence, the Conduct Officer shall meet with the complainant and the respondent separately; the complainant need not be physically present, but may otherwise participate in the meeting through

telephonic or electronic means (such as video conferencing) or both.

8.5.2.2 If either the complainant or the respondent or both do not meet with the Conduct Officer, the Conduct Officer may determine the outcome of the case with either or both parties absent.

8.5.2.3 The respondent and the complainant may not be actively represented by an attorney at the Conduct Officer Hearing; attorneys may only attend the Conduct Officer Hearing. Parents or family members who are attorneys may not be present in a lawyer capacity.

8.5.2.4 All Conduct Officer Hearings are confidential and closed to the general public.

8.5.2.5 If a Conduct Officer Hearing involves more than one respondent, the Conduct Officer, at his or her discretion, may conduct a separate hearing for each respondent.

8.5.2.6 The Conduct Officer may determine the outcome of the case administratively by assigning responsibility and sanctions.

8.5.2.7 If the Conduct Officer is unable to determine the outcome of the case for one or more of the following reasons, the Conduct Officer may refer the case to a University Conduct Board:

- a. The respondent denies violating the University's Title IX harassment policy;
- b. The respondent does not accept the sanctions;
- c. The alleged Title IX harassment has substantially interfered with University proceedings; or
- d. The offenses are repeated.

8.5.2.8 The complainant or the respondent or both may also request a hearing before a University Conduct Board and shall do so in writing to the Conduct Officer within seven days of the date of the Conduct Officer Hearing.

8.5.3. University Conduct Board Hearing

8.5.3.1. Composition of the University Conduct Board

8.5.3.1.1 For hearings arising from a complaint for Title IX harassment, the University Conduct Board must consist of at least five members, including at least one member of the faculty and at least one member of the staff.

8.5.3.1.2 Whenever possible, the members from the University Conduct Board pool will be selected randomly through a nomination process conducted by the Office of the Dean of Student Life.

8.5.3.1.3 The Dean of a graduate school shall appoint, as may be necessary and appropriate, University Conduct Boards composed of staff and faculty for cases of Title IX harassment involving graduate students enrolled in their respective graduate schools. The Dean of Graduate Studies and the Dean of a school with one or more graduate programs shall appoint, as may be necessary and appropriate, University Conduct Boards composed of staff and faculty for cases of Title IX harassment involving graduate students enrolled in their respective school. The rosters of persons appointed to these boards shall be provided to the Office of the Dean of Student Life by the respective deans of these schools.

8.5.3.1.4 Any member of a board may withdraw voluntarily.

8.5.3.1.5 The Dean of Student Life shall appoint the Chair of the University Conduct Board.

8.5.3.2. Quorum

8.5.3.2.1 At least four members of the University Conduct Board (in any combination) must be present throughout the hearing. If less than the required number is present at the opening of the hearing and with the consent of the Title IX Coordinator, the remaining members of the Board shall postpone the hearing until four members can be convened. These requirements in this subsection may be waived upon written agreement of the Conduct Officer, complainant, and the respondent.

8.5.3.2.2 Once the hearing has commenced, if a Board member should need to withdraw for a period of less than thirty

days and upon notification to the Title IX Coordinator, the hearing shall recess until all members can be present.

8.5.3.2.3 Once the hearing has commenced, if a Board member should need to withdraw for a period of more than thirty days or permanently, the respondent may request that the hearing continue with the remaining hearing board members; if the complainant consents, the Board may do so. Otherwise, a new hearing will be scheduled. The Board shall consult with the Title IX Coordinator before scheduling a new hearing date.

8.5.3.2.4 If there is no quorum and a member is excluded and upon notification to the Title IX Coordinator, the hearing will be delayed until the selection of another member from the University Conduct Board pool.

8.5.3.3. Membership and Training

8.5.3.3.1 The Office of the Dean of Student Life shall conduct a nomination process for students, faculty members, and staff to serve on University Conduct Boards. The Dean of Student Life shall appoint each member to serve on a specific board on a random basis, whenever possible. The Dean of Student Life shall make every attempt to ensure that board members reflect the full diversity of the University and that the University Conduct Board includes at least one member of the gender opposite to the respondent and complainant.

8.5.3.3.2 Before beginning to handle a complaint of Title IX harassment, SMU shall ensure that any person who is involved in the process of hearing a complaint have received training in at least the following:

- a. student conduct policies and procedures, including this Policy;
- b. hearing board member responsibilities and ethical considerations;
- c. questioning techniques;

- d. other relevant information as determined by the Office of the Dean of Student Life; and
- e. Title IX training as determined by the Title IX Coordinator.

8.5.3.4. Conduct Liaisons

Prior to the University Conduct Board hearing, the complainant and the respondent may meet separately with a Conduct Liaison. The Conduct Liaisons may attend the University Conduct Board Hearing but will not question witnesses, provide statements or speak on behalf of a student. Neither the complainant nor the respondent is obligated to meet with the Conduct Liaison.

8.5.3.5. Hearing Procedures

8.5.3.5.1. Notice of University Conduct Board Hearing

8.5.3.5.1.1 Not less than four days prior to the University Conduct Board hearing, the Office of the Dean of Student Life shall provide the Conduct Officer, the complainant, and the respondent a written Notice of University Conduct Board Hearing, which shall include the

- a. date,
- b. time, and
- c. location of the hearing.

The Office of the Dean of Student Life shall also provide a copy of the Notice of University Conduct Board Hearing to the Title IX Coordinator.

8.5.3.5.1.2 The Office of the Dean of Student Life shall provide the Notice of University Conduct Board Hearing to the complainant and the respondent via one or more of the following methods:

- a. email,
- b. courier, or
- c. First Class U.S. Mail, postage prepaid.

If notice is provided to a student by U.S. Mail, the Dean of Student of Life shall use the local mailing address on file with the University Registrar's office.

8.5.3.5.2. Prehearing Submissions

8.5.3.5.2.1 The complainant (including the University in situations where the complainant does not wish to proceed on his or her own) and the respondent must attempt to provide written notification to the witnesses whom they intend to call during the University Conduct Board Hearing. Such notice shall set forth the time, place, and date of the hearing. The University shall notify members of the student community that failure to appear as a witness may result in a charge against them under Section 3.11, Failure to Comply, of the Student Code of Conduct.

8.5.3.5.2.2 No less than three days prior to the hearing, the complainant and the respondent shall receive from the other any documents to be introduced at the hearing and a list of those witnesses whose testimony will be presented in person or by summation through a Conduct Officer, including a brief summary of the anticipated testimony.

8.5.3.5.2.3 No less than two days prior to the hearing, the complainant and the respondent may each present to a Conduct Officer copies of all documents to be introduced at the hearing and a list of those witnesses whose testimony will be presented in person or by summation, including a brief summary of anticipated testimony.

8.5.3.6. Hearing Record

The Conduct Officer shall record (via audio) the University Conduct Board Hearing. At his or her discretion, the Dean of Student Life may arrange also for a certified court reporter to transcribe the University Conduct Board Hearing. The Office of the Dean of Student Life shall store the recording and any

transcript for as long as the file is kept and also provide copies to the Title IX Coordinator. Deliberations of the University Conduct Board after the hearing may not be recorded or transcribed.

8.5.3.7. Decorum

8.5.3.7.1 The Chair of the University Conduct Board shall maintain order for the proper conduct of the hearing.

8.5.3.7.2 When necessary, the Chair may expel disruptive individuals or adjourn the hearing to a later time to assure the full development of facts in a calm, deliberate setting.

8.5.3.7.3 The Chair shall permit the introduction of any relevant testimony and documents.

8.5.3.7.4 The Chair shall resolve any procedural issues with discretion.

8.5.3.7.5 At the discretion of the Dean of Student Life and in consultation with the Title IX Coordinator, the Chair may grant extensions of time at any time prior to the commencement of the hearing to permit reasonably sufficient time for

- (i) the complainant to prepare his or her case, or
- (ii) the respondent to prepare his or her response, or
- (iii) both.

8.5.3.7.6 At the discretion of the Dean of Student Life and in consultation with the Title IX Coordinator, the Dean of Student Life may grant an extension of time to the complainant or respondent at any time to provide additional evidence to the University Conduct Board.

8.5.3.7.7 After the commencement of the hearing, if the University Conduct Board discovers the need for more preparation or more time to hear testimony, the Chair shall recess the hearing to a later time. The Chair will inform the Title IX Coordinator of any continuance of the hearing.

8.5.3.7.8 Inability to obtain witnesses shall not justify undue delay to continue a hearing. If a witness is unable to attend the hearing in person, he or she may participate –

- (i) telephonically or electronically (e.g., by Skype, or video conference);
- (ii) by sworn, notarized statement; or
- (iii) through a written statement.

8.5.3.8. Statements and Witnesses

8.5.3.8.1 The complainant and the respondent may present witnesses during the University Conduct Board hearing. If the University is the complainant, the Conduct Officer may present witnesses during the University Conduct Board hearing.

8.5.3.8.2 A complainant or a respondent may not cross examine each other. The Chair shall require that the complainant and the respondent first submit questions to the Chair, who will then direct the questions to the witness. The Conduct Officer may direct questions to each witness.

8.5.3.8.3 Each member of the University Conduct Board may direct questions to all witnesses.

8.5.3.8.4 The complainant and the respondent shall each have the right to make an opening and a closing statement.

8.5.3.8.5 The complainant may give the first opening statement.

8.5.3.8.6 The respondent may give the last closing statement.

8.5.3.8.7 The complainant and the respondent may each include a statement of the impact of the alleged offense as part of a closing statement.

8.5.3.9. Deliberations of the University Conduct Board

8.5.3.9.1 After the conclusion of the hearing, the University Conduct Board shall deliberate in executive session (only Board members present during the session) to reach a decision.

8.5.3.9.2 Each member, including the Chair, may vote, and all determinations shall be by majority vote.

8.5.3.9.3 If there is a finding of responsibility, the Board shall recommend sanctions. If the respondent is found not responsible, the Board shall close the case, subject to the appeal rights set forth in Section 8.5.4 below.

8.5.3.9.4 Within three days of the date of the conclusion of its deliberations, the Board shall provide a written report to the Dean of Student Life, including in its report –

- a. findings of fact;
- b. basis for finding responsibility or non-responsibility; and
- c. if finding the respondent responsible, the reasons for the recommended sanction, if any.

8.5.3.9.5 Within three days of the date of receipt of the Board's report, the Office of the Dean of Student Life shall notify in writing the complainant, the respondent, and the Title IX Coordinator of the Board's findings and recommended sanction, if any. If the Dean of Student Life becomes aware of a procedural error during this three-day period, the Dean of Student Life may take corrective action, including calling for a new hearing before the University Conduct Board.

8.5.3.9.6. During his or her service on the University Conduct Board, each member shall maintain confidentiality of all details pertinent to a matter and of all actions related to a hearing and refrain from comment on actions or persons involved in the hearing.

8.5.3.10. Sanctions

The University Conduct Board may recommend to the Vice President for Student Affairs one or more of the following sanctions:

8.5.3.10.1. **EXPULSION.** An individual or group will be separated from the University on a permanent basis. An individual's

expulsion will be permanently recorded on his or her academic transcript. Before this sanction is enforced, the President of the University will review it. A student expelled from the University may not enter campus grounds for any reason without the express written permission from the Office of the Dean of Student Life. A student expelled from the University will not receive a refund of any monies paid, including tuition, fees, and room and board.

8.5.3.10.2. **SUSPENSION.** An individual or group will be dismissed from the University for an assigned time period and under the conditions deemed necessary by the student conduct review process. A student suspended from the University may not enter campus grounds for any reason during the period of her/his suspension without the express written permission from the Office of the Dean of Student Life. A student suspended from the University before an academic semester ends will not receive a refund of any monies paid, including tuition, fees, and room and board. No academic credit earned during the period of suspension at any other institution may be transferred to SMU. A disciplinary suspension and its effective dates are recorded on a student's academic transcript. The notation remains for the time the student is enrolled in the University and is removed three (3) years after graduation. If the student leaves the University before graduation, the notation is removed three (3) years after the anticipated date of graduation from the University.

8.5.3.10.3. **DEFERRED SUSPENSION.** Individual or group suspension may be deferred (not enforced). Deferred terms (i.e., conditions of the deferred suspension and its duration) will be set by the Conduct Officer or University Conduct Board that imposed the sanction. If a subsequent Conduct Officer or University Conduct Board finds the student responsible for violating the terms of deferred suspension during the period established by the previous Conduct Officer or University Conduct Board, the student may be suspended.

8.5.3.10.4. DISCIPLINARY PROBATION. A student or group is given a warning that further violations will result in consideration of suspension. The student or a group representative may be required to report to a Conduct Officer on a regular basis during the period of the probation.

8.5.3.10.5. CONDUCT REPRIMAND. The individual or group will be given formal notice by the University Conduct Board or the Conduct Officer that they have violated this Policy. If the individual or group is found in violation of a further charge, that case will be considered more seriously.

8.5.3.10.6. INFORMAL WARNING. A written notice indicating a violation of this Policy that is not considered a part of a student's formal disciplinary record.

Absent any appeal to the University Conduct Council in accordance with the procedures set forth in Section 8.5.4 below, the Vice President for Student Affairs shall review the findings and recommended sanctions, if any, by the University Conduct Board and make a determination as to their correctness and appropriateness in the context of the totality of the circumstances. Absent such an appeal and subject to discretionary review by the President pursuant to Section 8.5.7 below, the findings and imposed sanction, if any, of the Vice President for Student Affairs is final.

8.5.4. Appeals of University Conduct Board Decisions to the University Conduct Council

8.5.4.1 The University Conduct Council

The University Conduct Council is the basic unit responsible for student conduct appeals in response to Title IX harassment complaints. It is the recommending body to the Vice President for Student Affairs.

8.5.4.2 Composition

The composition of the University Conduct Council is set forth at Section V.A. of the University Conduct Review Process.

8.5.4.3. Selection

The selection of members of the University Conduct Council is set forth at Section V.B. of the University Conduct Review Process.

8.5.4.4. Requesting an Appeal

Within four days of receipt of notification of such findings and recommended sanctions, if any, the complainant or the respondent or both have the right to request the Dean of Student Life to permit the requesting party to appeal to the University Conduct Council the findings and recommended sanctions, if any, of the University Conduct Board. The Dean of Student Life has the discretion to grant or deny the request for an appeal.

8.5.4.5 Grounds for Requesting an Appeal

The Dean of Student Life may grant an appeal to the complainant or the respondent or both on finding that (i) any one or more of the following circumstances exist and (ii) the mere existence of the circumstance(s) would significantly change the University Conduct Board's findings and recommended sanction, if any:

- a. An erroneous findings of fact;
- b. Procedural irregularities in the conduct of the hearing;
- c. New and relevant evidence not known at the time of the hearing;
- d. Evidence presented at the hearing that supports the finding of responsibility, but which is insufficient to support the finding; or
- e. Recommendation of a sanction that is either unreasonably harsh or inadequate.

8.5.4.6. University Conduct Council Procedures Regarding Appeals

8.5.4.6.1 The Office of the Dean of Student Life shall provide an appeals packet to the University Conduct Council. The packet must contain the following documents:

- a. the original complaint filed by the complainant;
- b. the documents accepted by the University Conduct Board at its hearing;

- c. the audio recording of hearing and any transcript of the hearing prepared by a certified court reporter; and
- d. the written request for an appeal explaining the grounds for appeal.

8.5.4.6.2 Only those members of the University Conduct Council who have participated in the training (including Title IX training approved by the University) provided to University Conduct Board members shall sit as the appellate body. Members of the University Conduct Council who have not completed this training cannot sit to hear any appeal of any University Conduct Board hearing of any Title IX harassment complaint.

8.5.4.6.3 The University Conduct Council shall base its findings and recommendations to uphold or overturn the result of a University Conduct Board hearing on either party's written request for an appellate review, any summary of the hearing prepared by the Conduct Officer or the Chair of the University Conduct Board, and the appeal packet prepared by the Office of the Dean of Student Life for the University Conduct Council.

8.5.4.6.4 At its discretion, the University Conduct Council may schedule a hearing and allow oral statements. The University Conduct Council may determine the presenters and the amount of time allowed for each statement. The Office of the Dean of Student Life shall inform the Title IX Coordinator of the date of any hearing to hear oral statements.

8.5.4.7. Determination of the Appeal

8.5.4.7.1 Within fifteen days of the date of the receipt of the appeal packet from the Office of the Dean of Student Life, the University Conduct Council shall recommend to the Vice President for Student Affairs one of the following actions:

- a. Dismissal of the case because there were such procedural irregularities at the hearing that one or both parties were clearly denied a fair hearing;

- b. Dismissal or remand of the case to the original University Conduct Board or Conduct Officer because:
 - i. there were erroneous findings of fact; or
 - ii. there were findings of fact clearly insufficient to support the complaint.
- c. Lowering or increasing the sanction imposed based on a finding that the recommended sanction is either unreasonably harsh or inadequate;
- d. If there is significant new evidence discovered between the conclusion of the original hearing decision and the time of the appeal, remanding the case to the original University Conduct Board or Conduct Officer.
- e. Upholding the findings and recommended sanctions, if any, of the University Conduct Board.

8.5.4.7.2 Subject to the discretionary review by the President pursuant to Section 8.5.7 below, the Vice President for Student Affairs shall review the recommendations of the University Conduct Council and the record of the complaint as a whole and shall then render a final determination in the matter.

8.5.4.7.3 Within seven days of the Vice President for Student Affairs making a final determination in regard to the complaint, the Dean of Student Life shall notify the complainant, the respondent, and the Title IX Coordinator in writing of the final determination of the Vice President of Student Affairs.

8.5.5. Records Retention

The University shall adhere to the policies set forth in Section VI of the University Conduct Review Process concerning records retention and expungement.

8.5.6. Review by the President of the University

8.5.5.1. At his or her discretion, the President of the University may review all decisions concerning student conduct, including findings of the University Conduct Board, the University Conduct Council, and all other conduct review bodies. Such review includes the power to take any action deemed appropriate, including reversing, amending or remanding with instructions concerning such decisions. The President's power of review as stated in this Policy is not limited in any way, and the President may act at his or her sole discretion in conducting such review and in deciding what action is appropriate.

8.5.5.2. The President shall inform in writing the complainant, the respondent, the University Conduct Board, the University Conduct Council, the Vice President for Student Affairs, the Dean of Student Life, and the Title IX Coordinator of any decision to affirm, reverse, amend or remand any decision concerning the Title IX harassment complaint.

8.6. Specific Procedures for Complaints Filed Against Faculty.

For complaints against faculty, the Title IX Coordinator shall submit the complaint and written report of investigation to the Provost or his or her designee. Within four days of the date of receipt of the complaint and written report from the Title IX Coordinator, the Provost shall refer the complaint and written report to the Faculty Senate Committee on Ethics and Tenure.

8.6.1. Hearing Panel

8.6.1.1 Within ten days of the date of receipt of the complaint and written report from the Provost, the Faculty Senate Committee on Ethics and Tenure shall establish a Hearing Panel to consider the allegations raised by the complaint against the member of the faculty and to make a written report and recommendations to the President. The Faculty Senate Committee on Ethics and Tenure may not appoint a person to the Hearing Committee who is in the same department as the respondent faculty member. The Faculty Senate shall make every attempt to ensure that the Hearing Committee reflects the full diversity of the University and that it includes at least one member of the gender opposite to the respondent and complainant.

8.6.1.2 Within ten days of the date of its appointment by the Faculty Senate Committee on Ethics and Tenure, the Hearing Panel shall

provide the respondent with written notice of the specific charges referenced in the complaint and shall conduct a pre-hearing. The Hearing Panel shall inform the Title IX Coordinator about the dates of any such meetings.

8.6.2. Pre-Hearing Meeting

8.6.2.1 The purpose of the pre-hearing meeting is to schedule a date for the hearing of the complaint and to

- (a) simplify the issues,
- (b) agree to stipulations of facts,
- (c) provide for the exchange of documents and other information, and
- (d) achieve other appropriate pre-hearing objectives to ensure a fair, effective, and expeditious hearing.

8.6.2.2 At its discretion, the Hearing Panel may meet with the complainant and the respondent at separate pre-hearing meetings. For complaints alleging sexual assault or sexual violence, the Hearing Panel shall meet with the complainant and the respondent separately; in that circumstance, the complainant also may participate in the pre-hearing meeting through telephonic or electronic means (such as video conferencing, if available) or both.

8.6.2.3 If a party does not attend the pre-hearing meeting, the Hearing Panel shall proceed to schedule a hearing on the Title IX harassment complaint and inform the Title IX Coordinator. The Hearing Panel shall provide each party with at least twenty days' written notice of the hearing date. The respondent shall respond to the charges in writing at least three days before the hearing.

8.6.2.4 The complainant and the respondent may waive a hearing.

8.6.2.5 If the respondent chooses to waive the hearing but denies the allegations of Title IX harassment, the Hearing Panel shall evaluate all available evidence and rest its recommendation to the President upon the evidence in the record. If the complainant waives the hearing but asserts the allegations of Title IX harassment as set forth in the complaint, the Hearing Panel shall evaluate all

available evidence and rest its recommendation to the President upon the evidence in the record.

8.6.3. Hearing Procedures

8.6.3.1 A Faculty Ethics and Tenure Committee Hearing Panel hearing is confidential and closed to the public. The complainant and the respondent may bring an (i) academic advisor, (ii) legal counsel and (iii) other person approved by the Hearing Panel to the hearing.

8.6.3.2 The Hearing Panel may make an audio recording record of the hearing and, at its discretion, may also arrange for a certified court reporter to transcribe the hearing. The Title IX Coordinator shall store the recording and any transcript for as long as the file is kept and also provide copies to the President of the University and the Office of the Provost. A copy of the record shall be made available to the complainant and to the respondent without cost to any party. The deliberations of the Hearing Panel after any hearing may not be recorded or transcribed.

8.6.3.3 Upon notification to the Title IX Coordinator, the Hearing Panel shall grant an adjournment not to exceed 10 days when necessary to enable either party to investigate evidence as to which a valid claim of surprise is made. The complainant and the respondent shall have the opportunity to obtain necessary witnesses, documents, and other evidence.

8.6.3.4 The complainant and the respondent have the right to make an opening and a closing statement. The complainant may give the first opening statement. The respondent may give the last closing statement. The complainant and the respondent may each include a statement of the impact of the alleged offense as part of a closing statement.

8.6.3.5 The complainant and the respondent may present witnesses during the hearing. The Chair of the Hearing Panel shall require that the complainant and the respondent first submit questions to Chair, who will then direct the questions to the witness. Each member of the Hearing Panel may direct questions to all witnesses.

8.6.3.6 At its discretion, where witnesses cannot or will not appear but have made or will make a written statement relating to the

complaint, the Hearing Panel may determine that the interests of justice require admission of such a statement. In such instances, the Hearing Panel will identify the witnesses, disclose their statements, and (if possible) provide for interrogatories to be submitted to the witnesses for response in order to clarify any remaining issues relating to the statements.

8.6.3.7 The Hearing Panel is not bound by strict rules of legal evidence and may admit evidence that is of probative value in determining the issues involved. Every possible effort will be made to obtain the most reliable evidence available.

8.6.3.8 The Hearing Panel will base its findings of fact and any recommendation for sanctions solely on the hearing record.

8.6.4. Report and Recommendations to the President and Final Decision

8.6.4.1 Within ten days of the last date of the hearing, the Hearing Panel shall deliver to the President a report containing written findings of fact and recommended corrective action, if any. The Hearing Panel shall provide a copy of this report to the Title IX Coordinator.

8.6.4.2 If the President rejects the report and recommendation, the President shall state the reasons for doing so in writing to the Hearing Panel, the complainant, and the respondent and provide each with five days to respond in writing to the President's action. The President shall also provide a copy of the decision to the Title IX Coordinator.

8.6.4.3 If the President sustains the report and recommendation, the President shall so state in writing to the Hearing Panel, the complainant, and the respondent and provide each with five days to respond in writing to the President's decision. The President shall also provide a copy of the decision to the Title IX Coordinator.

8.6.4.4 In considering responses from the participants to his or her decision to reject or sustain the report and recommendation from the Hearing Panel, the President may provide opportunity for oral and written argument by the complainant, the respondent or their representatives who participated in the hearing before the Hearing Panel.

8.6.4.5 If the President issues specific objections to the report and recommendation, the President will return the matter to the Hearing Panel with specific instructions on how to proceed. If the matter is returned to the Hearing Panel, it will reconsider the matter, taking into account the objections stated by the President and receiving any new evidence, as necessary. In this circumstance, the Hearing Panel will return to the President a written report of reconsideration with findings of fact and a recommendation. The President will then review the report of reconsideration and recommendation and render a final decision concerning the complaint, providing written notice of the decision to the complainant, the respondent, the Hearing Panel, and the Title IX Coordinator.

Section 9. On-line training COURSE

All new faculty and staff employees of SMU must take SMU's online course Preventing Sexual Harassment. This course may be accessed at:

<http://training.newmedialearning.com/psh/southernmu/index.htm>

CONTACTS

COMPLAINTS:

Complaints of Title IX harassment should be referred to SMU's Title IX Coordinator:

Ms. Samantha Thomas
Title IX Coordinator
Executive Director for Access and Equity and
Executive Assistant to the President
Office of Institutional Access and Equity
204 Perkins Administration Building
6425 Boaz Lane
P.O. Box 750200
Dallas, TX 75275-0200
Phone: 214-768-3601
FAX: 214-768-2101
Email: thomassa@smu.edu
Web: <http://smu.edu.iae/>

QUESTIONS:

Direct general questions about SMU University Policy 2.5, Title IX Harassment, to:

Office of Institutional Access and Equity

204 Perkins Administration Building
6425 Boaz Lane
P.O. Box 750200
Dallas, Texas 75275-0200

Phone: 214-758-3601

FAX: 214-768-2101
Email: accessequity@smu.edu
Web: <http://smu.edu.iae/>

Direct legal questions about Policy 2.5, Title IX Harassment, to:

Office of Legal Affairs
130 Perkins Administration Building
6425 Boaz Lane
P.O. Box 750132
Dallas, Texas 75275-132
Phone: 214-758-33233

FAX: 214-768-1281
Email: ola@smu.edu
Web: <http://www.smu.edu/ola>

POLICY CLARIFICATION AND GENERAL INFORMATION:

Policy Clarification and General Information on Policy-Making at SMU:

Office of the Secretary

Phone: (214) 768-3233

FAX: (214) 768-1208
Email: marogers@smu.edu