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This Policy covers discrimination, harassment, sexual harassment, and retaliation occurring on campus, or otherwise within the context of University education programs and activities, whether those are on campus or off campus. It applies to persons who are on campus or who otherwise participate in or attempt to participate in the University education programs and activities (as further defined herein), such as employees, students, applicants for employment or admission, contractors, vendors, visitors, and guests. Conduct that occurs off campus and outside the context of the University's education programs and activities is covered by this Policy only to the extent such conduct has a nexus to discrimination, harassment, sexual harassment, or retaliation that is alleged to have occurred on-campus or in the context of the University's education programs and activities.

In Title IX Sexual Harassment cases (as described in this Policy), complainants must be participating in or attempting to participate in the University's education programs and activities at the time the formal, written complaint is submitted.

For purposes of this policy, the University's education programs and activities are defined as the operations of the University, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the University. It also includes off-campus locations, events, or circumstances over which the University exercises substantial control over the alleged perpetrator and the context in which the misconduct occurs.

All reports of conduct prohibited by this Policy should be submitted as soon as practicable to the Office of Institutional Equity (OIE). Delay in submitting a report could decrease the availability of supporting evidence, and the reason for a delay may be reviewed during the investigation and decision-making phases of the process.

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Supervisors (within their area of supervision) and administrators must make reports of possible violations of this Policy to OIE as soon as practicable upon noti

In this Policy, discrimination is treating an individual adversely in employment, housing, or academic decisions based on race, color, ethnicity, national origin, sex, sexual orientation, gender identity, religion, age, ancestry, disability, genetic information, military status, or veteran status.

person may be incapable of giving consent because of mental deficiency or disease, or because of the effect of any alcohol, narcotic, drug or other substance that renders the person incapacitated, when that condition is known by the offender or is reasonably apparent to the offender.

In this Policy, retaliation is any materially adverse action taken against an individual because the individual has: (1) openly opposed a policy or practice the individual believed was a violation of this Policy or state or federal anti-discrimination law; (2) engaged in protected activity such as making a request for a reasonable accommodation; (3) participated in the investigation or resolution of a report or complaint under this Policy; or, (4) in the case of Title IX Sexual Harassment cases, refused to participate in any manner in the investigation or resolution of a report or complaint under this Policy. There must be a sufficient causal nexus between the protected activity and the adverse action.

"report" under this Policy is a communication to OIE regarding a potential violation of this Policy suffered by another person. An "initial complaint" under this Policy is a communication submitted by the person who believes that they have directly suffered a violation of this Policy. "formal, written complaint" is a signed, written document that includes the totality of allegations to be investigated by an IRT. All reports, initial complaints, and formal, written complaints are processed under the Procedure for Reviewing Reports and Complaints.

In Title IX Sexual Harassment cases, an advisor is a person chosen by a party or appointed by the University to accompany a party to meetings related to the Policy process, and to conduct cross-examination for the party at the hearing, if any. An advisor may be an employee or non-employee of the University.

In all matters under this Policy, the Investigator is the person charged by the University with gathering facts about an alleged violation of this Policy, assessing the relevance of those facts, and preparing a report as described in the processes stated in this Policy. The Investigator serves as the principal individual in the Administrative Review Team (IRT) for purposes of interviewing witnesses, gathering facts, and preparing the report.

In this Policy, the Responsible Administrator is typically the University official with authority to implement the recommendations of an Administrative Review Team ("IRT"), or in the case of a Title IX Sexual Harassment grievance proceeding the University official with authority to implement the decisions and sanctions of the hearing.

Director of Student Life is the Deciding Administrator. In cases involving a graduate student as respondent, the Dean of the Graduate School is the Deciding Administrator. The Deciding Administrator will often serve as the Responsible Administrator for the same complaint. Deciding Administrator does not serve as the Appeal Administrator regarding the same complaint, except in the case of USS employees as respondents. In cases where the respondent is a vendor, guest, or visitor, the official with authority over the applicable area or department where the conduct occurred is the Deciding Administrator.

Only Title IX Sexual Harassment cases have a Hearing Officer. The Hearing Officer oversees the hearing. The Hearing Officer may ask questions of witnesses and will rule on whether questions are permissible. After the hearing, the Hearing Officer will issue a written determination of responsibility. The Hearing Officer is designated by the University, and may be an employee or non-employee of the University.

In non-Title IX Sexual Harassment proceedings, the Appeal Administrator is the direct superior of the Deciding Administrator, except in the case of USS employees as respondents. In non-Title IX proceedings, if the University President is the Deciding Administrator, then there is no appeal available.

In Title IX Sexual Harassment proceedings, the Vice President of Student Life or designee will review and decide on any appeal submitted to the Title IX Coordinator by a student, and the Proost or designee will review and decide on any other appeals submitted to the Title IX Coordinator, except in the case of USS employees as respondents. If the Proost is a respondent, then the President will be the Appeal Administrator. If the President is a respondent, then the Title IX Coordinator will designate an Appeal Administrator.

For all cases in which USS employees are respondents, the Peer Review Committee evaluates an appeal based upon the same standards required of Appeal Administrators, makes a written recommendation to the Director of Employee Relations (DER), and the DER makes the final decision.

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Reports or initial complaints may be [submitted to OIE \(https://cm.maxient.com/reportingform.php?KansasStateUni&layout_id=34\)](https://cm.maxient.com/reportingform.php?KansasStateUni&layout_id=34).

any person making a report or initial complaint under this Policy may either (a) submit it to the Office of

the effect the conduct has had on employment, learning or living environment or the complainant's ability to participate in university programs or activities, and the same or any other of the person alleged to have engaged in the conduct.

In addition, a person discusses a sexual violence, domestic or dating violence, or stalkt or nd th; x r th at dal

The RT will interview the complainant as soon as possible so that the RT members hear the initial complaint and get sufficient information to decide how to process it. If the RT determines after initial evaluation that there is no jurisdiction or the alleged conduct, even if true, would not constitute a violation of this Policy, then the RT will notify the complainant that the initial complaint does not warrant further review under this Policy. That notice will explain the RT's decision and refer the complainant to the appropriate University office, if any. This determination by the RT is final and not subject to further review within the University, except in cases alleging Title IX Sexual Harassment (as defined in this Policy). In those cases, complainants may appeal under the procedures described in this Policy.

complainant's failure or refusal to participate in the RT process may prevent the RT from investigating the alleged conduct.

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If the RT determines that the alleged conduct, if true, would constitute a violation of this Policy, the RT will obtain or produce a formal, written complaint and conduct a thorough, prompt, fair and impartial investigation, as set forth in the steps below. If the complainant does not prepare the formal, written complaint, then the RT will ask the complainant to read and, if necessary, to make corrections for accuracy and sign the formal, written complaint.

In Title IX Sexual Harassment cases, if the complainant does not sign the formal, written complaint, the Title IX coordinator may sign it. The Title IX coordinator may decide whether to sign a formal, written complaint not signed by a complainant based on alleged conduct, surrounding circumstances, and the potential for continuing harm on campus or in a University education program or activity. An unsigned complaint must be dismissed; a signed complaint is further reviewed and processed under this Policy.

In Title IX Sexual Harassment cases, once filed, the RT may elect to dismiss a formal complaint if: (1) the complainant notifies the Title IX coordinator in writing that the complainant would like to withdraw the formal complaint or allegations therein; (2) the respondent is no longer enrolled at or employed by the University; or (3) specific circumstances prevent the RT from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein. In any of these circumstances, the parties will be notified in writing of the dismissal and, in Title IX Sexual Harassment cases, the RT will also notify the Title IX coordinator.

In non-Title IX Sexual Harassment cases, if the complainant does not sign the complaint, the RT processes the unsigned complaint based on the information available.

If the RT is not already based on multiple complaints based on the same set of facts and involving the same parties, the RT may elect to consolidate the cases for purposes of the investigation and, in Title IX Sexual Harassment cases, the RT may also elect to consolidate the cases for purposes of the hearing.

Complainants, respondents, and witnesses are generally not permitted to have an individual accompany them to interviews with the IRT. If the investigation relates to alleged Title IX Sexual Harassment, then the complainant and respondent may be accompanied to any related meeting or proceeding by one advisor. In these cases, the parties may select their own advisor or, if they do not have their own advisor, one will be made available to them by the University at no cost. The complainant and respondent shall provide prior notice to OIE that an advisor will attend any meetings and whether their advisor is an attorney. During investigation meetings, advisors (including attorneys) are not permitted to participate during the interview, other than to speak to their advisee. An advisor who disrupts the process (as determined by the IRT) may be excluded from the proceeding in subsequent meetings.

evidentiary standards provided by the hearing officer. Each party's advisor may also ask the other party and any witnesses relevant questions directly, orally, and in real time. The Hearing Officer will determine whether such questions are relevant.

During the hearing, questioning and evidence regarding a complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are

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The Deciding administrator should rule on an appeal in a timely fashion, preferably within thirty (30) days after receipt of the appeal. Rulings should be made in writing, with copies to the complainant, respondent, OIE, and the Office of General Counsel.

Appeal of a Sanction if Violation Found

If the Deciding administrator imposes a sanction, then a written appeal by either the complainant or respondent may be submitted to the appeal administrator within ten (10) days from the date of the Deciding administrator's written decision.

Respondent's appeal must be in writing and the appeal must state every ground on which the appeal is based. Complainant's appeal must be in writing, must state every ground on which the appeal is based, and may appeal only the severity of the sanction(s).

On appeal, the appeal administrator does not conduct a new investigation. The appeal may only decide, based upon the written information, whether the RT's violation determination and/or the Deciding administrator's sanctions were "arbitrary and capricious." This means that there must be no reasonable basis, under circumstances presented, to uphold the sanctions imposed by the Deciding administrator. The appeal administrator must defer to the RT for all credibility decisions (e.g., who is telling the truth). Deciding administrator who follows the RT's recommended sanction will be presumed not to have acted arbitrarily or capriciously, unless conclusively demonstrated otherwise.

If the appeal administrator determines that the RT's Policy violation determination was arbitrary and capricious, then the appeal administrator shall remand the matter back to the RT for further investigation and shall provide the RT with a specific written basis for the "arbitrary and capricious" determination. The process then returns to Step 6. Decision to remand to the RT is not subject to appeal.

If the appeal administrator determines only that the Deciding administrator's sanctions are arbitrary and capricious, then the appeal administrator shall refer the matter back to the Deciding administrator for further review and shall provide the Deciding administrator with a specific written basis for the "arbitrary and capricious" determination. The process then returns to Step 9. Decision to remand to the Deciding administrator is not subject to appeal.

The appeal administrator should rule on an appeal in a timely fashion, preferably within thirty (30) days after receipt of the appeal. Rulings should be made in writing, with copies to the complainant, respondent, OIE, and the Office of General Counsel. A ruling by the appeal administrator that affirms the Deciding administrator's decision is not subject to further review within the University.

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At any point prior to or during the administrative review, OIE or the RT may refer either or both parties to the ombudspersons, Employee Assistance, Employee Relations, University Counseling Services, the Office of Student Life, Human Resources, the Center for Disability Response and Education (CRE), dean or department head, Mediation Services, or other persons deemed appropriate by the RT.

Information for students and employees about counseling, health, mental health, victim advocacy, legal assistance, and other services available for harassment, sexual harassment, and sexual violence victims both on-campus and in the community can be found at [OIE \(http://www.k-state.edu/oie/resolution/\)](http://www.k-state.edu/oie/resolution/) and [CRE \(http://www.k-state.edu/care/get-help/\)](http://www.k-state.edu/care/get-help/).

Salina Police Department (<http://www.salina-ks.gov/Police-Department>) <http://www.salina-ks.gov/Police-Department>

Olathe Police Department (<http://www.olatheks.org/government/police>) <http://www.olatheks.org/government/police>

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The University retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the University's interpretation or application differs from the interpretation of the parties.

Despite the University's reasonable efforts to anticipate all eventualities in drafting this Policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the University retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this Policy are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the University retains discretion to revise this Policy at any time, and for any reason. The University may apply policy revisions to an active case provided that doing so is not clearly unreasonable.

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Please refer questions regarding this Policy to the O