

University Response to Sexual Misconduct

Agenda

1. Scope
2. Trends with reported information
3. Reports and complaints
4. Supportive measures
5. Grievance procedures: investigation and hearing

Sexual Misconduct

Umbrella term for harm that is based on one's sex or gender

Includes:

- Sexual and gender harassment
- Sexual assault
- Dating and domestic violence
- Stalking

Trends: July 2020 through June 2021

Majority of incidents occurred off campus or in residence halls

- Residence hall cases primarily out of Northern View – all dating or domestic violence

Significant decrease in percentage of on campus incidents (excluding residence halls)

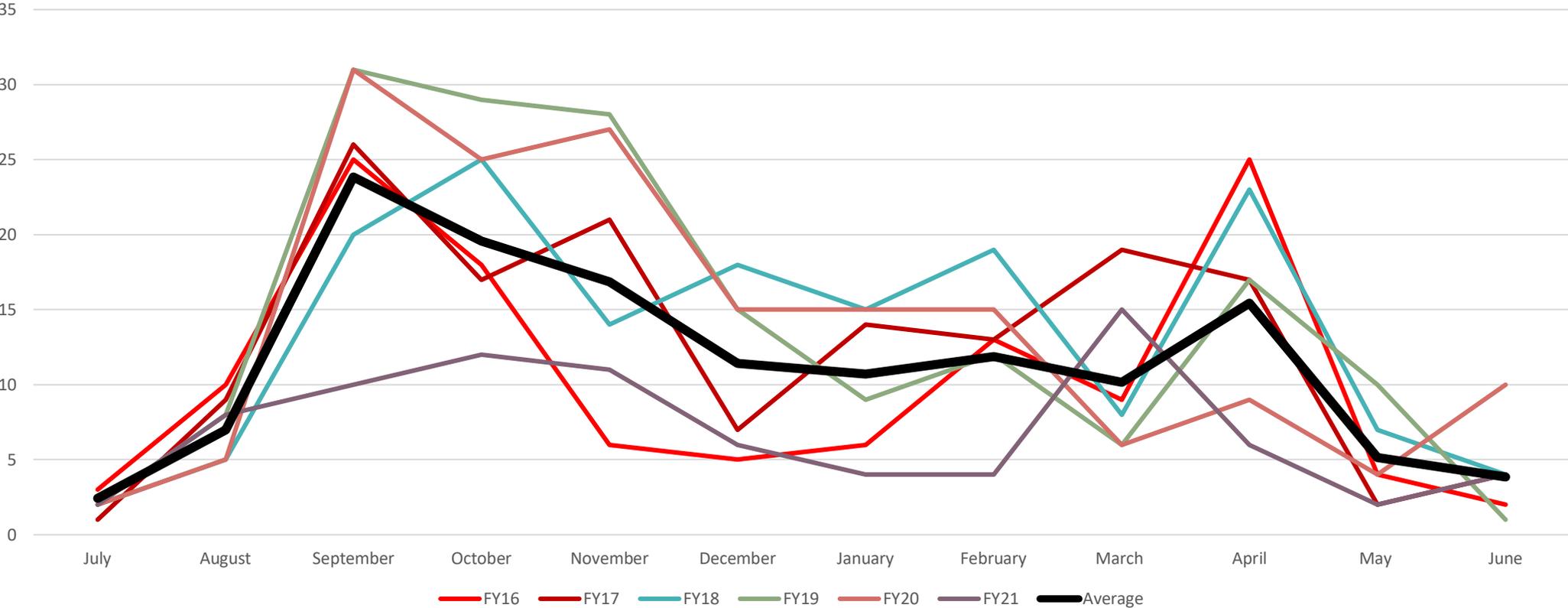
Increase in electronic/online incidents

Majority of housing staff reports are dating or domestic violence or sexual harassment

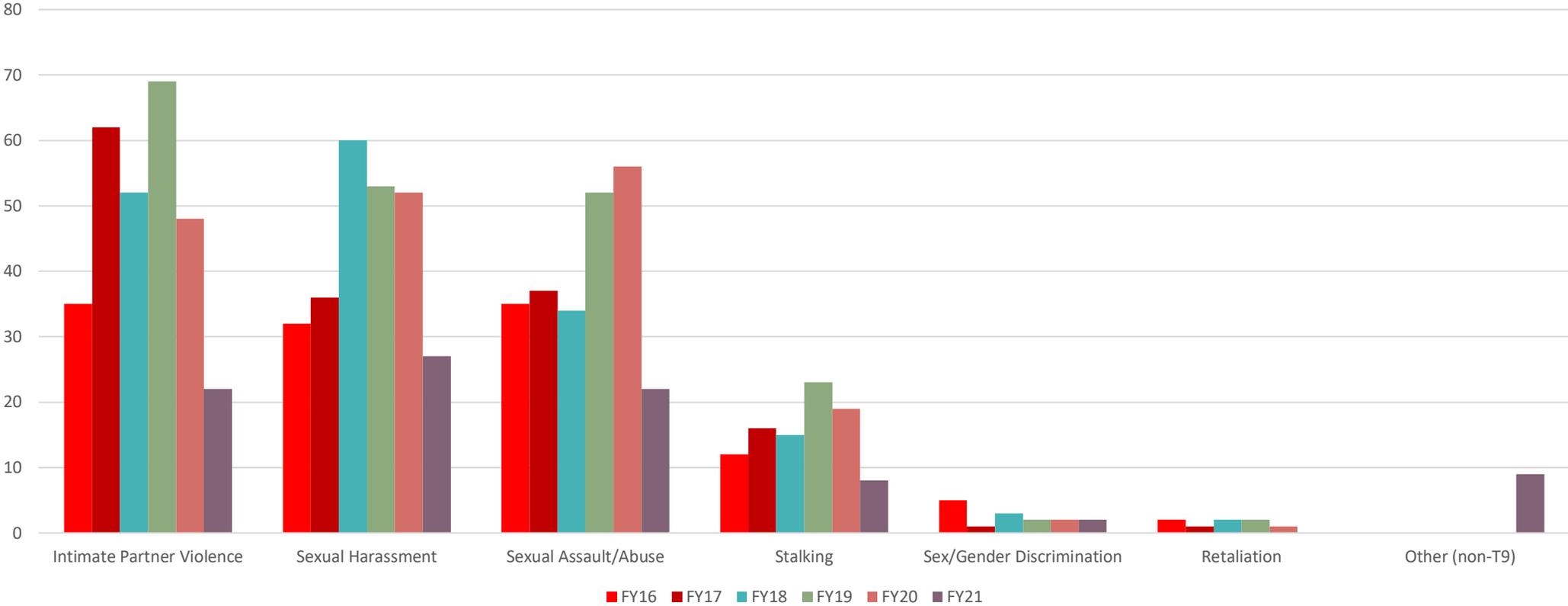
Increase in faculty/other staff reporting since Responsible Employee training launched in Nov. 2019

Increased student participation in training on sexual misconduct

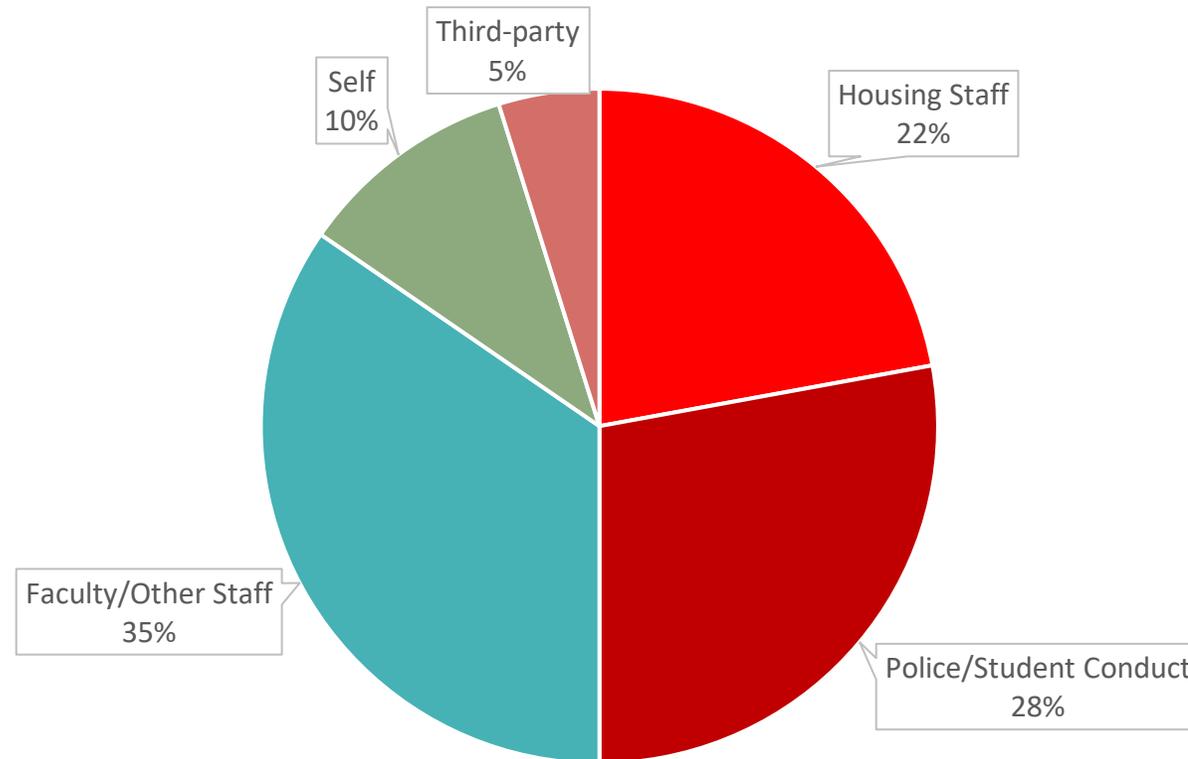
Incidents Reported by Month



Reported Allegations by Fiscal Year



Who Made the Report



Terminology

Complainant: individual subjected to sexual misconduct

- Victim/survivor

Respondent: individual accused of engaging in sexual misconduct

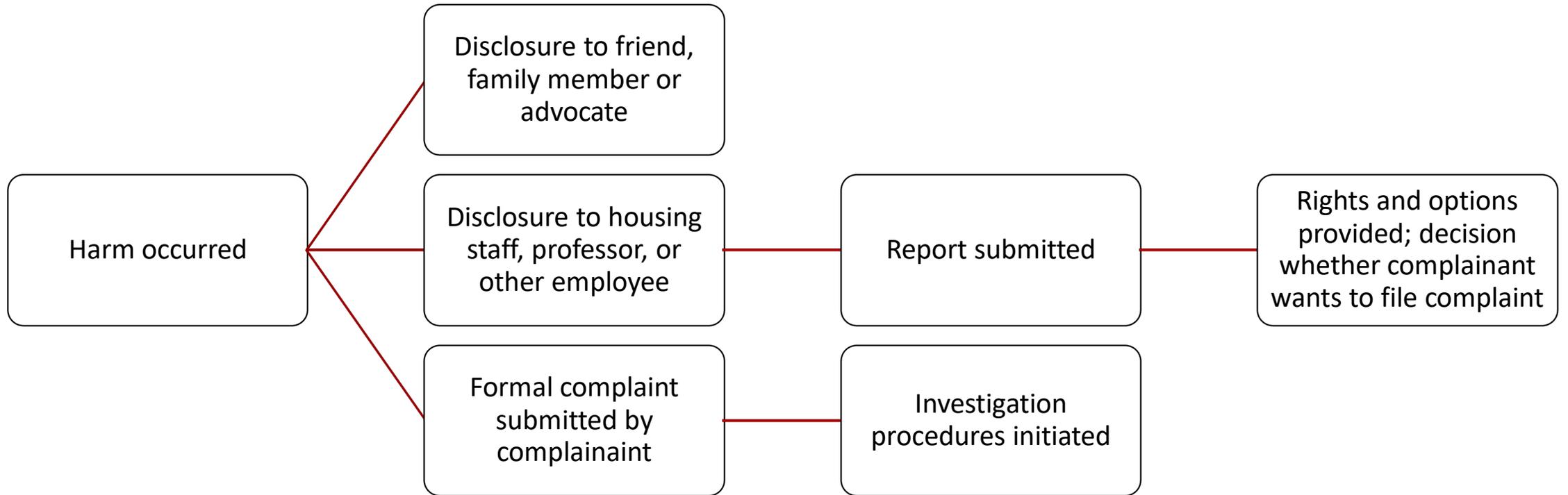
- Offender

Reports: places the Title IX Coordinator on notice of actual or suspected sexual harassment

- Made by Responsible Employees, third-parties, and Complainants
- Triggers information on the Complainant's rights and options

Complaints: document filed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment and requesting an investigation

- Triggers the university's formal grievance procedures



What happens after a report is made?

The identified Complainant will be promptly contacted about rights and options

Information included:

- How to file a formal complaint with the university
- How to file a police report
- Contact information of support services
- Availability of supportive measures with or without filing a complaint
- Brief summary of complaint resolution procedures

Their decision whether to proceed with formal process*

What happens after a complaint is made?

Notice of the complaint sent to Complainant and Respondent

- Identities of parties involved
- Conduct allegedly constituting policy violation
- Date and location of incident
- Presumption of not responsible
- Determination regarding responsibility made at conclusion of hearing
- Ability to have advisor of choice
- May inspect and review evidence
- Prohibition on knowingly making false statement or submitting false information

Supportive Measures

Non-disciplinary and non-punitive individualized services offered without fee or charge

- Before or after filing a formal complaint or where no formal complaint has been filed.
- Cannot unreasonably burden the other party
- Confidential

Designed to restore or preserve equal access to the university's program, or activity or protect the safety of all parties or the education environment, or deter sexual harassment

May include:

- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in work or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

Privacy v. Confidentiality

Privacy: ability to share on a need to know basis

- Responsible employees

Confidentiality: not able to disclose information to others

- Exception: release/consent of the individual
- Supportive measure are confidential
 - To the extent that it would not impair ability to provide supportive measures

Amnesty

Immunity to any student who reports, in good faith, a violation of the policy to a responsible employee so that the reporting party will not receive disciplinary action for a code/policy violation that is revealed in the course of the report

- Underage drinking, illegal drug use, housing violations, etc.
- Exception: determination that the violation was egregious, including an action that places the health or safety of another at risk

Retaliation

If an individual is harassed, threatening or harmed because they...

- Report or disclose an alleged violation of policy
- File a complaint
- Otherwise participate in the procedures

They are protected from retaliation.

Violation of Student Code of Conduct (no live hearing requirement)

Role of Investigator

Neutral fact-finders

- Not an advocate
- Will provide resource and referral information
- Objective
- Does not make a decision on responsibility or sanctions

Informal Resolution

Circumstances allowing informal resolution:

- Facts not contested,
- Respondent admitted or wishes to admit responsibility, or
- Both parties want to resolve the case without a completed investigation or hearing.

Ultimate decision on whether informal resolution is available and appropriate, including the terms, rests with the Title IX Coordinator.

Only offered after a formal complaint is filed.

If desired, request should be made prior to reaching a determination regarding responsibility.

No appeal rights.

Investigation Process

The university is responsible for gathering evidence

- Separate interviews with the complainant, the respondent, and witnesses
- Collection of nontestimonial evidence

Interviewee able to give their version of events, list the names of any potential witnesses (including fact and expert witnesses), and provide both inculpatory and exculpatory evidence.

The complainant and respondent may also suggest questions to be asked of the other party.

At end of investigation, complainant and respondent provided copy of all evidence

- Able to provide additional information or responses

Additional report given 10 days prior to a hearing

- Disputed and undisputed information
- Facts related to credibility
- Serves as basis of hearing

Support Persons and Advisors

Support persons: able to be present at any proceeding, other than the hearing, to provide support.

- May not speak on behalf of a party
- May not question the other party
- Cannot have a conflict of interest

Advisors: present during any stage of the proceeding, including the hearing

- Must be present during hearing to conduct questioning of the other party
- Few limitations on who the advisor can be
- Must attend pre-hearing with party
- University advisors available

Pre-Hearing Meeting

Both parties and their advisors separately meet with the Title IX Coordinator

- Rules discussed
- Identity of the hearing officer disclosed
- Dates and times regarding availability for the hearing will be provided
- Other questions and answers provided
- Party's advisor must attend this meeting and failure to attend may result in their disqualification from participating in the hearing

Hearing Process

Conducted in real time: in-person or through electronic means

- Parties must be able to simultaneously see and hear the party or the witness answering questions.
- Complainant and respondent are not permitted to directly ask questions of each other.

Advisors: must attend with complainant or respondent

- Conduct cross-examination of the parties and any witnesses.

Only relevant questions allowed to be asked: hearing officer determines relevancy

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant

- Exception: to prove that someone other than the respondent committed the conduct alleged, or concern specific incidents of the complainant's prior sexual behavior with the respondent and are offered to prove consent.

Hearing Decision

Conclusion of the hearing, written determination regarding responsibility issued

- Standard of proof: preponderance of evidence
 - Whether it is more likely than not that the alleged conduct occurred and constitutes a violation of this policy evaluated from the perspective of a similarly situated reasonable person when considering the totality of the circumstances involved in the matter.

Determination provided separately and simultaneously to complainant and respondent and includes:

- Allegations contained within the notice
- Description of procedural steps taken
- Finding of fact supporting the determination
- Conclusion regarding the application of policy to the facts
- Statement and rationale for the determination of responsibility
- Any sanctions imposed on the respondent
- Remedies provided to the complainant.

Determination final on the date that the appeal response is provided or the date on which appeal would no longer be considered timely.

Sanctions will be in effect after the determination is final.

If a decision is made that no violation of policy has occurred, may transfer the matter to an applicable university policy/process.

Appeals

Complainant and Respondent both have a right to appeal the decision

Grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time of the determination regarding responsibility was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator(s), or hearing officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter;
- The outcome was significantly contrary, unsupported, and unreasonable to the weight of the evidence presented; and
- The sanction is disproportionate to the violation.

