

**Shared Governance Proposal**  
**Proposed by the Faculty Handbook Committee**

~~February 28, 2017~~ [September 12, 2017](#)

**Rational:**

After a review of the most current Faculty Handbook (BOT Approved September 19, 2014), it has become clear that an extensive reorganization is in order. This reorganization originated with the Faculty Handbook Committee and has had preliminary approval from the Chancellor, Provost, and the SGOC.

There are a number of issues and concerns, both substantive and editorial, with the current Handbook that will need to be addressed. Among these are duplications, confusions, obsolete information and inaccuracies. Since changes to the Handbook require vetting through the shared governance process it is felt that one major proposal to address all of the issues would be impractical. Therefore, reorganization has been undertaken which will chunk the information currently in the Handbook into smaller sections and thereby making it easier to review and consider potential changes. Initially this reorganization process will only be lifting current text and placing it in a new format with several more sections than in the current version. It is anticipated that this process will take the majority of this academic year. It is also anticipated that as this process unfolds there will be substantive edits that will need to be made through the shared governance process. When and as, these arise they will be noted and cataloged for further action.

What you are being asked to do is review and approve these reorganizational revisions one at a time. By so doing at the end of the process we will have our (the faculty's) version of the Handbook. Also, we will have a document that can be recompiled and already approved for BOT consideration. When you receive this, or future Sections, and information has been changed that might be considered more than editorial that information will be transparent and underscored in the proposal submitted for your approval.

The purpose of this proposal is to reorganize the information in Section ~~IV-V~~ of the current Faculty Handbook. Please be aware the Section Numbering may change in the final draft and you are being asked to review this section as a free standing section which will replace the existing Section V. This edit was performed, in large part, by the System Office.

[Note: this section will become Section IV in the new habdbook and therefore is labeled as such.](#)

[The document you are receiveing is labeled VI and will be corrected when it is folded into the Faculty Handbook.](#)

## Section ~~IV~~<sup>IV</sup> Faculty Grievance Procedure

The grievance procedure is designed to resolve grievances at the department, college, or university level whenever possible, or failing that, through a committee which will be empowered to hear the complaint. Grievants are encouraged to discuss and resolve the grievance at the level closest to the faculty member, regardless of the nature of the grievance. If the grievance remains unresolved after initial discussions, the faculty member may file a formal grievance pursuant to the procedures below. Grievances are filed by individual faculty members using the procedures identified in ~~the following materials~~Section VI.B., if the issue to be grieved is consistent with Section VI. A. including if the grievance is alleging discrimination on the basis of color, race, age, national origin, religion, marital status, Veteran status, genetic information or disability.

Faculty grievances on the denial of promotion or tenure are governed under Section VI. C. herein.

Faculty grievances alleging discrimination on the basis of sex are governed by the Sexual Discrimination Grievance Procedure, as outlined in Section VI. D. herein.

Student grievances against or involving a faculty member are governed by the Student Academic Grievance Procedure or Student Rights Grievance Procedure, as applicable.

~~Faculty grievances alleging discrimination on the basis of sex are governed by the Sexual Discrimination Grievance Procedure, as outlined in the Arkansas State University System Staff Handbook.~~

~~Faculty grievances alleging discrimination on the basis of color, race, age, national origin, religion, marital status, Veteran status, genetic information or disability are governed by the Staff Grievance Procedures, as outlined in the Arkansas State University System Staff Handbook.~~

Arkansas State University will not discriminate against, and is prohibited from discriminating against, any person who has filed a grievance.

### VI.A. Grieveable Issues

The faculty grievance procedure applies only to alleged institutional error which affects the terms or conditions of that faculty member's employment, and includes allegations of discrimination on the basis of color, race, age, national origin, religion, marital status, Veteran status, genetic information or disability. **Institutional error occurs when no legitimate reason exists for the action taken. Decisions which require the exercise of judgment or discretion cannot constitute institutional error.** Dissatisfaction with or recommended changes to university policy are not Grieveable ~~i~~ssues and must be pursued through the University Governance procedures set out in Section I of this Faculty Handbook. A representative from the Department of Human Resources will be available to assist the faculty member in determining whether a Grieveable ~~i~~ssue exists.

All grievances will be investigated within the stated time period to ensure prompt, yet thorough, action. The Assistant Vice Chancellor for Human Resources will grant time adjustments in the event of circumstances that prevent the grievance from being heard within the time period

outlined in this Faculty Handbook. In such circumstances all parties will be notified in writing by the Associate Vice Chancellor for Administration of the length of extension granted.

Employee files of a faculty grievant and of other similarly situated faculty members, for purposes of comparison, will be available to faculty grievance committees to the extent that such committees deem such records relevant and necessary to the fair disposition of the grievance before them.

#### **Section VI Faculty Grievance Procedure**

PRT files of other similarly situated faculty members, whether current or on retention in the Office of the Provost/Academic Affairs and Research, will be available to the Academic Hearing Committee to the extent that the Academic Hearing Committee deems such records relevant and necessary to the fair disposition of the grievance before them. PRT files may be reviewed by the committee in the Office of the Provost/Academic Affairs and Research.

### **VI.B. Steps in the Grievance Procedure**

Any grievance not related to promotion, retention, or tenure must be filed in writing within ninety (90) days from the time the events leading to the complaint occurred.

Any faculty member with a complaint based on discrimination because of race, color, religion, age, disability, gender, or national origin should at this point also contact the Office of Affirmative Action. All discrimination complaints will be monitored by the Office of Affirmative Action and the Assistant Vice Chancellor for Human Resources.

Grievance committee discussions, Votes and recommendations are confidential at all levels: members will not share any individual information outside the committee. Voting at all levels will be by secret ballot and tallied by the committee chair.

#### **VI.B.1. Department level:**

##### Initial Discussions

Initially, a faculty member seeking to file a grievance should discuss the grievance with the department chair. It is the chair's responsibility to give an impartial, informal hearing, to make a complete investigation, and, if possible, to seek an answer or resolution agreeable to all parties. The department chair shall reply orally to the faculty member within twenty (20) business days. If a mutually agreeable resolution is not reached within twenty (20) business days after the presentation of the grievance to the chair, the faculty member may submit a written complaint to the Department Grievance Committee. Complaint forms can be obtained in the Department of Human Resources and, upon request, a staff member there will assist in the preparation of a complaint and explain the steps involved in the grievance procedure. The Department of Human Resources will maintain secure files on all grievances and will monitor their outcome once they have reached this level.

##### Department Grievance Committee

*Composition:*

Each department shall establish a Department Grievance Committee, including at least five (5) members to represent all tenured and non-tenured faculty members in the department. This committee is a standing body elected by the full-time faculty in the department. Faculty selected will reflect the racial, ethnic, and gender diversity of the department. Members serve two-year terms with a portion being replaced annually as determined by the department. The committee elects a chair each year. No faculty member may sit on a committee to hear a grievance against himself or herself, a grievance he/she has filed, or a grievance which he/she may later review or act upon, except that a member of the Department Grievance Committee shall sit on the College Grievance Committee. The Assistant Vice Chancellor for Human Resources or his/her designee will serve as an ex-officio, nonvoting member of the committee for the purpose of providing advice and assistance on university procedural and policy matters. The Assistant Vice Chancellor for Human Resources will be present for the initial presentation of the grievance to the committee and during any formal hearing. The Assistant Vice Chancellor for Human Resources will not be present during committee discussions and deliberations unless asked to attend; however, he/she will review the committee's report of findings and their recommendations for technical and/or legal issues prior to submission. In cases of alleged discrimination, the role of an affirmative action coordinator is limited as described above for the Assistant Vice Chancellor for Human Resources.

For those departments which do not have at least five (5) faculty members, faculty members from other departments, both within and outside of the college, may be substituted to compose the Department Grievance Committee. Any person serving on the Department Grievance Committee is prohibited from sitting on the Academic Hearing Committee for the same grievance.

*Proceedings:*

The Department Grievance Committee has no more than twenty (20) business days after a complaint is received to make a recommendation in writing to the department chair, the grievant, and any other party in the grievance with a copy to the Assistant Vice Chancellor for Human Resources. All proceedings of this committee shall be in closed session and will not include the grievant or the party complained against unless the committee requests their oral testimony. If oral testimony is requested by the committee, both parties may be present. Each party may have up to two (2) advisers or colleagues present during the testimony, whose role shall be limited to personal consultation. The committee will be notified at least one (1) business day and not fewer than twenty-four (24) hours in advance of the identity of any advisers to be present. The chair of the committee may examine official files relevant to the case. These data may be submitted in summary form by the committee as part of the record, giving due regard to confidential information. If a mutually agreeable resolution is not reached by the Department Grievance Committee, a written complaint should be submitted by the grievant to the dean within ten (10) business days after the Department Grievance Committee's response is received.

Recommendations:

In resolving a case the Department Grievance Committee has two (2) options:

- A. It may recommend after hearing the evidence that the grievance should be denied on the grounds that no institutional error was found.
- B. If the Department Grievance Committee decides that an institutional error has been made, it will recommend a remedy. Recommendations for redress of the grievance will be based upon the committee's perceived need for an appropriate change in a term or condition of employment.

Findings:

In all instances the committee will prepare a written record of its findings of fact, a statement of its conclusion, including the reasons or policy criteria used in reaching their conclusions and recommendations for the resolution of the grievance. This response will be filed with the Department of Human Resources as the committee's official findings and will be retained for a period of not less than five (5) years. Copies of the Departmental Grievance Committee report will also be sent to the grievant, the party complained against, the department chair, the dean of college, and in cases of alleged discrimination to the affirmative action coordinator. If the complaint remains unresolved after the Department Grievance Committee action, the grievance may be sent to the dean of the college by any of the parties within ten (10) business days following the receipt of the findings of the Department Grievance Committee.

**VI.BB.2. College level:**

Initial discussions with the Dean

After receiving a written grievance, the dean shall have ten (10) business days to prepare a written response. In that time the dean will consult with the department chair and chair of the Department Grievance Committee involved, study all the relevant facts, carefully examine any policies involved, discuss the issue with the faculty member and, if possible, resolve the issue raised within the framework of existing university policy to the satisfaction of all involved. If a mutually agreeable resolution is not reached within ten (10) business days after presentation of the grievance to the dean, the grievant may submit a written complaint to the College Grievance Committee. The Department of Human Resources will maintain secure files on all complaints and will monitor their outcome once they have reached this level. The grievant along with any other parties involved in the grievance, the department chair, and the Assistant Vice Chancellor for Human Resources shall receive written notification of the dean's response to the grievance. A copy of this response should also be sent to the affirmative action coordinator if a complaint of discrimination is involved.

College Grievance Committee

Composition:

Each college shall establish a College Grievance Committee, consisting of at least five (5) tenured faculty members representing all tenured and non-tenured faculty. The College Grievance Committee will include one (1) representative from each department within the college serving

on his or her department's Departmental Grievance Committee (normally the chair of that committee). This committee is a standing body representing all faculty members in the college. Faculty selected will reflect the racial, ethnic, and gender diversity of the college. Members serve staggered two (2) year terms with a portion being replaced annually. The committee elects a chair each year. No faculty member may sit on a committee to hear a grievance against himself or herself, a grievance he/she has filed, or a grievance which he/she may later review or act upon.

In discrimination complaints the College Grievance Committee shall have three (3) additional members who shall be selected by the College Grievance Committee from a pool of nine (9) tenured faculty members who are appointed by the Chancellor and who will have special training in issues involving discrimination. These nine members (9) will also serve two-year terms on a rotating basis.

The Assistant Vice Chancellor for Human Resources or his/her designee will serve as an ex-officio, nonvoting member of the committee for the purpose of providing advice and assistance on university procedural and policy matters. The Assistant Vice Chancellor for Human Resources will be present for the initial presentation of the grievance to the committee and during any formal hearing. The Assistant Vice Chancellor for Human Resources will not be present during committee discussions and deliberations unless asked to attend; however, he/she will review the committee's report of findings and their recommendations for technical and/or legal issues prior to submission to the dean. The Assistant Vice Chancellor for Human Resources may consult with the Office of General Counsel for the Arkansas State University System regarding any legal issues related to the grievance. In cases of alleged discrimination, the role of an affirmative action coordinator is limited as described above for the Assistant Vice Chancellor for Human Resources.

Proceedings:

The College Grievance Committee has no more than twenty (20) business days after a complaint is received to make a recommendation in writing to the dean, to the grievant, others party to the grievance and a copy to the Department of Human Resources. All proceedings shall be in closed session and will not include the grievant or the party complained against unless the committee requests their oral testimony. If oral testimony is requested by the committee, both parties may be present. Each party may have up to two (2) advisers present during the testimony, whose role shall be limited to personal consultation. The committee will be notified at least one (1) business day, and not fewer than twenty-four (24) hours in advance of the identity of any advisor or colleague to be present.

Recommendations:

In resolving a case the College Grievance Committee has two options:

- A. It may recommend after hearing the evidence that the grievance should be denied on the grounds that no institutional error was found.
- B. If the Academic Hearing Committee decides that an institutional error has been made, it will recommend a remedy. Recommendations for redress of the grievance will be based upon the committee's perceived need for an appropriate change in a term or condition of employment.

Findings:

In all instances the committee will prepare a written record of its findings of fact, a statement of its conclusion, including the reasons or policy criteria used in reaching their conclusions and recommendations for the resolution of the grievance. This response will be filed with the Department of Human Resources as the committee's official findings and will be retained for a period of not less than five (5) years. Copies of the College Grievance Committee report will also be sent to the grievant, the party complained against, the department chair, the dean of the college, the Provost and Vice Chancellor for Academic Affairs and Research, and in cases of alleged discrimination to the affirmative action coordinator. If a mutually agreeable resolution is not reached by the College Grievance Committee, the grievance may be sent to the chair of the Academic Hearing Committee (AHC) by any of the parties involved within ten (10) business days of receipt of the findings of the College Grievance Committee.

**VI.bB.3. University level:**

Academic Hearing Committee

Composition:

At the end of each spring semester, the Executive Committee of the Faculty Senate will present to the Chancellor a list of the names of fifteen (15) tenure-track/tenured full time faculty members (at least half of whom will have served during the previous academic year) who will serve two (2) year terms that are staggered to provide continuity to the committee. Terms will begin at the start of each academic year. The Executive Committee of the Faculty Senate will ensure that all colleges are represented when drawing up the list of names. Faculty selected will reflect the racial, ethnic, and gender diversity at Arkansas State University.

At the first committee meeting, the AHC will elect a chair who has recently served on the AHC. The chair of the AHC must be a tenured faculty member. When a grievance reaches the level of the AHC, the chair of the AHC will notify the Chancellor. The Chancellor will select from the committee of the whole, a subcommittee of five (5) to hear each grievance. The Chancellor will also select a dean, from among the pool of academic deans, and a department chair, from the pool of department chairs, to serve for each subcommittee empaneled. The AHC chair will serve as the nonvoting chair for the seven (7) member subcommittee empaneled. Faculty members who have been selected to serve on a College Grievance Committee may not simultaneously sit on the Academic Hearing Committee for the same grievance.

Each subcommittee will elect one (1) of its members to prepare a record of the proceedings and deliberations and prepare a formal report of the committee findings. The Chancellor will select a replacement from the AHC for any member of a subcommittee who must recuse him/herself or who will not be available for the duration of the hearing.

In cases of alleged discrimination, three (3) additional tenured professors, selected from the University Diversity and Affirmative Action Committee, will join the AHC. The parties on each side of such a case will each choose one (1) member from the UDAAC; the two (2) individuals selected from the UDAAC will in turn select a third person from the UDAAC to sit on the AHC. The Department of Human Resources will assemble any necessary materials relevant to the

grievance before the subcommittee, arrange facilities, and maintain an official written record of the hearing when completed.

The Assistant Vice Chancellor for Human Resources or his/her designee will serve as an ex-officio, nonvoting member of the committee for the purpose of providing advice and assistance on university procedural and policy matters. The Assistant Vice Chancellor for Human Resources will be present for the initial presentation of the grievance to the subcommittee and during any formal hearing. The Assistant Vice Chancellor for Human Resources will not be present during subcommittee discussions and deliberations unless asked to attend; however, he/she will review the subcommittee's report of findings and their recommendations for technical and/or legal issues prior to submission to the Chancellor by the chair of the AHC. The Assistant Vice Chancellor for Human Resources may consult with the Office of General Counsel for the Arkansas State University System regarding any legal issues related to the grievance. In alleged discrimination cases, the role of an affirmative action coordinator is limited as described for the Assistant Vice Chancellor for Human Resources.

Proceedings:

The Academic Hearing Committee has no more than twenty (20) business days after a grievance is received to make a recommendation in writing to the -Chancellor, Assistant Vice Chancellor for Human Resources, and any and all parties to the grievance. All proceedings of this committee shall be private and will not include the grievant or the party complained against unless the committee requests their oral testimony. If oral testimony is requested from either party, both parties may be present. Each party may have up to two (2) advisers present during the testimony; however, the role of the advisor will be limited to personal consultation. The committee will be notified at least one (1) business day and not fewer than twenty-four (24) hours in advance of the identity of any advisers to be present. The committee will make their recommendations to the Chancellor, the Assistant Vice Chancellor for Human Resources, and all individuals party to the grievance. In all deliberations regarding a case before the AHC, only the empaneled committee members may be present and participate.

Recommendations:

In resolving a case the Academic Hearing Committee has two (2) options:

- A. It may recommend after hearing the evidence that the grievance should be denied on the grounds that no institutional error was found.
- B. If the Academic Hearing Committee decides that an institutional error has been made, it will recommend a remedy. Recommendations for redress of the grievance will be based upon the committee's perceived need for an appropriate change in a term or condition of employment.

In all instances the committee will make a written record of its finding of fact, a statement of its conclusion, including the reason or policy criteria used in reaching its conclusion, and any recommendation for resolution of the grievance. All recommendations by the AHC shall be forwarded to the Chancellor. Copies of the committee's recommendation shall also be sent to all parties concerned, the department chair, the dean, the Provost and Vice Chancellor for Academic Affairs and Research, the Assistant Vice Chancellor for Human Resources, and in cases of alleged discrimination to the university affirmative action coordinator.

The Chancellor shall render a final decision on the grievance and communicate that decision in writing in the form of a letter to the grievant and to the chairperson of the AHC within ten (10) working days after receipt of the AHC's recommendation. In the event that the Chancellor does not follow the recommendation of the AHC he/she will include in the letter to all parties involved his/her basis for not accepting the Committee's recommendation.

#### VI. C. Grievance on Promotion or Tenure

A faculty member who has been denied promotion or tenure and believes there are grounds for a grievance relating to his/her case must begin the grievance process within thirty (30) business days after receipt of the letter from the Provost and Vice Chancellor for Academic Affairs and Research notifying him/her that his/her application for promotion and/or tenure has been denied. The faculty member may discuss denial of promotion or tenure with the Provost and Vice Chancellor for Academic Affairs and Research and, if the faculty member remains unsatisfied, he/she may submit a grievance to the AHC. Since promotion and tenure recommendations come through a series of departmental, college, and university committees, grievances involving decisions relating to promotion and tenure will be reviewed by the Academic Hearing Committee for institutional error only.

Non-tenure or probationary faculty members who are not reappointed have the right to discuss this issue with the chair of their Department PRT Committee, the department chair, the dean, and the Provost and Vice Chancellor for Academic Affairs and Research but may not grieve.

#### VI. eC.1. Document Collection and Disposition:

When a grievance proceeding has been closed, all material relating to that case including official written records of the hearing, statements, other non-confidential evidence and documents, and a list of confidential materials examined shall be archived in the Department of Human Resources for a minimum of five (5) years. Care will be taken to ensure that no incomplete or inaccurate information pertaining to the grievance is retained in the file.

#### VI. D. Sexual Discrimination Grievances

Arkansas State University is committed to providing an educational and work environment for its students, faculty, and staff that is free from sexual discrimination including sexual harassment, sexual assault, sexual violence, stalking, domestic violence, and dating violence. No form of sexual discrimination will be tolerated.

##### 1. Definitions:

- a. Sexual Harassment is defined as unwelcome gender-based verbal or physical conduct that is severe, persistent or pervasive and occurs when:
  - i. Submission to, or toleration of, such conduct is made a term or condition of instruction, employment, or participation in other university activities;
  - ii. Submission to, or rejection of, such conduct is used as a basis for employment or education decisions affecting the individual; or

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- ii. Such conduct has the effect of unreasonably interfering with an individual's education or employment performance or creating an intimidating, hostile, or offensive university environment.
  - b. Sexual assault occurs when a person is subjected to an unwanted sexual act by force or threat without consent. Sexual acts occur without consent when they are perpetrated against a person's will or where a person is incapable of giving consent due to minority, intellectual impairment, or use of mind altering substances such as drugs or alcohol.
  - c. Sexual violence includes sexual assault but may also consist of an attempt to obtain a sexual act or sexual advances using coercion which do not result in a completed sexual act.
  - d. Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress.
  - e. Domestic Violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Arkansas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic of family violence laws of the State of Arkansas.
  - f. Dating Violence is defined as violence committed by a person (i) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (ii) where the existence of such a relationship shall be determined based on a consideration of the following factors: (A) the length of the relationship, (B) the type of relationship, and (C) the frequency of interaction between the persons involved in the relationship.
2. It is important to preserve all evidence of sexual discrimination, especially if the discrimination is also a criminal offense, such as sexual assault, sexual violence, stalking, domestic violence, or dating violence.
  3. Supervisors and faculty members must recognize that their positions necessarily embody unequal power relationships with their subordinates and students. Because of the inherent power differences in these relationships, the potential exists for the less powerful to perceive a coercive element in suggestions relative to activities outside those appropriate to the professional relationship. It is the responsibility of supervisors and faculty members to behave in such a manner that their words or actions cannot reasonably be perceived as coercive.
  4. Arkansas State University has a Title IX Coordinator who is charged with investigating allegations of sexual discrimination including sexual harassment, sexual assault, sexual violence, stalking, domestic violence and dating violence.
  5. Faculty and employees with supervisory responsibilities, including deans, vice chancellors, department chairs, faculty, student conduct personnel, human resources personnel, athletic administrators, coaches, and university police personnel must report incidents of sexual discrimination either observed by them or reported to them to the Title IX Coordinator who will conduct an immediate, thorough, and objective investigation of all claims. If sexual discrimination has occurred, appropriate remedial action commensurate with the severity of the offense will be taken up to and including termination. All reports, complaints, and investigations are treated with discretion and confidentiality is maintained to the extent allowed by law.
  6. The Title IX Coordinator will notify the appropriate law enforcement agency of all reports of sexual assault, sexual violence, stalking, domestic violence or dating violence. The person who

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has allegedly been subjected to sexual discrimination may also contact law enforcement and may seek an order of protection, no contact order, or similar order. The Title IX Coordinator will assist the person alleging to be subjected to sexual discrimination with locating resources for counseling, medical treatment, legal advice, victim advocacy, or other services.

7. Each campus within the Arkansas State University System provides educational materials and programs on sexual discrimination. Contact the Human Resources Department or Title IX Coordinator for information on awareness and prevention of sexual discrimination.
8. The University reserves the right to take whatever measures it deems necessary in response to an allegation of sexual discrimination in order to protect individuals' rights and personal safety. Such measures include, but are not limited to, modification of campus living or employment arrangements, interim suspensions from campus, no contact or communications requirements, leave with or without pay, and reporting the matter to law enforcement. Persons reporting allegations of sexual discrimination must follow the Sexual Discrimination Grievance Procedure.
9. Sexual Discrimination Grievance Procedure:
  - a. GRIEVANCE ISSUES: The Sexual Discrimination Grievance Procedure applies to all allegations of sexual discrimination including sexual harassment, sexual assault, sexual violence, stalking, domestic violence, and dating violence.
  - b. REPORT OF SEXUAL DISCRIMINATION: Any faculty member, employee, student, or visitor who believes he or she has been subjected to sexual discrimination should report the incident to the Title IX Coordinator utilizing the grievance form available on the Human Resources or Student Conduct web sites. Faculty members and employees with supervisory responsibilities including deans, vice chancellors, department chairs, faculty, student conduct personnel, human resources personnel, athletic administrators, coaches, and university police personnel must report incidents of sexual discrimination either observed by them or reported to them to the Title IX Coordinator. In the event the sexual discrimination allegation is against the Title IX Coordinator, the report form should be submitted to the Office of General Counsel. In order to ensure timely investigation and remedy, a sexual discrimination grievance should be activated within sixty (60) days from the time the events leading to the complaint occurred. All complaints are investigated; however, delay in reporting impedes the ability to achieve prompt resolution. All efforts will be made to honor a request for confidentiality but confidentiality cannot be ensured. Reports of sexual assault, sexual violence, stalking, domestic violence and dating violence will be reported to law enforcement authorities. Criminal investigations by any law enforcement agencies or investigations conducted under the Faculty, Staff, or Student Handbooks may occur simultaneously with a sexual discrimination grievance and do not affect the grievance process.
  - c. TITLE IX COORDINATOR'S RESPONSE: Within forty-five (45) calendar days after receipt of a written grievance form, the Title IX Coordinator, or designee, will conduct a full and impartial investigation including interviewing the complainant, the accused, and any witnesses identified as well as reviewing any documentary evidence submitted by either party. As early as possible in the investigation, the Title IX Coordinator should determine whether temporary remedial measures are warranted such as suspension from employment with or without pay, suspension from classes, issuance of a no contact directive, reassignment of job duties, or changing class or classroom assignments. If immediate action is required to protect the complainant, the Title IX Coordinator shall work with the appropriate administrator to implement temporary remedial measures. The past sexual history or sexual character of a party will not be admissible by the other party in the investigation or any subsequent hearing unless the party was found to be

responsible, the previous incident was substantially similar to the present allegation, and the past actions indicate a pattern of behavior consistent with the current allegations. After studying all the pertinent facts and documents, carefully examining any policies involved, and discussing the issue with the parties and witnesses, the Title IX Coordinator shall either (i) propose an informal resolution to the parties which, if accepted, shall be documented in writing and shall conclude the investigation or (ii) prepare a formal written report making a finding, based on the preponderance of the evidence, as to whether sexual discrimination occurred, and if so, recommending a remedy which will end the discrimination, prevent its recurrence, and remove its effects on the complainant and the university community. The report shall be transmitted simultaneously to the complainant and the accused and implemented immediately. If both parties agree with the report, the grievance shall be closed and the remedies continued. If either party does not agree with the finding of the Title IX Coordinator and desires to appeal, that party must submit, within five (5) working days of the date of the report, a written request to the Department of Human Resources for a hearing before the Sexual Discrimination Hearing Committee. The written request will detail the alleged error of the Title IX Coordinator and the requested remedy. The Department of Human Resources will provide the party not appealing with a copy of the request. Within five (5) working days of the date of the letter from the Human Resources Department, the party not appealing may submit a written response to the request for hearing countering any allegations in that document. Copies will be provided to the Title IX Coordinator for placement in the case file. Timelines may be extended by the Title IX Coordinator in extenuating circumstances.

- d. SEXUAL DISCRIMINATION HEARING COMMITTEE COMPOSITION: The Sexual Discrimination Hearing Committee is composed of members selected by the Chancellor from the Academic Hearing Committee, the Student Conduct Hearing Committee, and the Staff Hearing Committee for that campus. The Sexual Discrimination Hearing Committee is composed of seven (7) members. When a student is the complainant, three (3) members of the committee shall be students, two (2) members faculty, and two (2) members staff; when the complainant is a staff member the committee shall be composed of three (3) staff members, two (2) faculty members, and two (2) students; when the complainant is a faculty member the committee shall be composed of three (3) faculty members, two (2) students, and two (2) staff. The committee elects a chair once convened. The Sexual Discrimination Hearing Committee shall have specific training on sexual discrimination. A member of Human Resources or Human Resources' designee sits as an ex-officio, non-voting member of the Sexual Discrimination Hearing Committee, offering technical assistance on procedural and policy matters.
- e. SEXUAL DISCRIMINATION HEARING COMMITTEE FUNCTIONS: The Sexual Discrimination Hearing Committee reviews the findings of the Title IX Coordinator to determine, based on the preponderance of the evidence, whether institutional error has occurred and, if so, to recommend an appropriate corrective action. Institutional error occurs when no legitimate reason exists for the action taken. Decisions which require the exercise of judgment or discretion cannot constitute institutional error. The committee has twenty (20) working days to prepare a written response after it has received a complaint. All proceedings shall be in closed session. Because the committee will have received the entire file from the Title IX Coordinator including all witness statements, the hearing will not include the grievant, the party complained against, or other witnesses unless either (i) the Committee requests their oral testimony or (ii) either party requests to testify

and/or present witnesses. In the event that oral testimony is requested, the grievant and the party complained against may be present and question the witnesses. If the grievance is one alleging sexual assault, sexual violence, stalking, domestic violence, or dating violence the parties will not question the other. Instead, the party testifying before the committee shall be screened so that they may be heard by the other party but not seen. The non-testifying party shall have the opportunity to provide written questions to the committee to be asked of the testifying witness based on his or her testimony. The committee may also question any person testifying. Each party may have an advisor present during the testimony who may provide personal consultation but may not actively participate in the hearing. The parties must disclose to the Chair of the Sexual Discrimination Hearing Committee the identity of any testifying witness or any advisor at least two (2) working days before any hearing. The Chair shall provide the list of witnesses to each party upon receipt. No audio or video recording is permitted. In reviewing a case two options are open to the Committee: i. It may find no institutional error has occurred and recommend that no further action be taken, or; ii. It may find that institutional error has occurred and recommend a remedy different than that proposed by the Title IX Coordinator.

- f. SEXUAL DISCRIMINATION HEARING COMMITTEE FINDINGS: In all instances the committee shall make a record of its findings, a statement of its conclusion, including the reason or policy criteria used in reaching a decision, and its recommendations for resolution of the grievance. The Committee decision shall be forwarded to the Chancellor of the campus for action. Copies will be filed with the Title IX Coordinator as a part of the complaint record and sent to the grievant and the accused. Within ten (10) working days of receipt of the Committee recommendation, the Chancellor will accept or reject the Committee recommendation in writing after review of all file materials. The Chancellor's decision is final. A copy of the decision shall be provided to the Title IX Coordinator for distribution to both the complainant and the accused. The Department of Human Resources or Student Conduct (as appropriate) will coordinate the implementation of any remedies resulting from the grievance.
- g. DOCUMENT COLLECTION: When a sexual discrimination grievance proceeding has been closed, all material relating to that case shall be retained on file by the Title IX Coordinator for seven (7) years. Care will be taken to ensure that no incomplete or inaccurate information pertaining to the grievance is retained in the file. Sexual discrimination grievance proceedings are considered confidential and no person involved with the grievance may make the documents public except as required by law.

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