



Evangel University Title IX Resolution Procedures

#SD0102

Abstract

This policy covers Title IX Resolution Procedures

Title IX Resolution Procedures

For Evangel University | 1111 N Glenstone Ave., Springfield, MO 65702

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APPROVAL

Evangel University’s Presidential Cabinet approves this policy.

I. OVERVIEW AND PURPOSE

Title IX of the Education Amendments of 1972 ("**Title IX**") is a federal law that protects people from discrimination based on sex in education programs or activities that receive federal financial assistance at institutions such as Evangel University ("**Evangel**" or the "**University**").

Evangel is committed to encouraging and sustaining a living, learning and work environment that is free from discrimination, harassment, and related misconduct. Evangel is also committed to an inclusive community that respects and values all its members, including its undergraduate students, graduate and professional students, faculty, staff, contractors and visitors.

These Title IX Resolution Procedures (these "**Title IX Procedures**" or "**Procedures**") describe the procedures that pertain to the resolution of Formal Complaints under the University's Title IX Policy ("**Title IX Policy**" or "**Policy**").

The University's Title IX Coordinator is the designated University official over Evangel's Title IX Policy and administers the Title IX Procedures:

Mark Entzminger Cantrell Student Union, 106

[\(417\) 865-2815](tel:(417)865-2815) x 7997 | entzminger@evangel.edu or titleix@evangel.edu

II. SCOPE AND APPLICABILITY

These Title IX Procedures apply to Formal Complaints of Title IX Policy violations.

For these Title IX Procedures to apply to reported conduct, all the following conditions must be satisfied:

- A. The conduct meets the definition of Title IX Policy violation under the Policy;
- B. The Title IX Policy violation occurred:
 - a. The Complainant is a current student or employee of the University, or a current applicant to become a student or employee of the University or is otherwise participating in or is a current applicant to participate in a University program or activity.
 - b. on Evangel's campus; or
 - c. during a University Education Program or Activity (includes locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by the University or a student organization that is officially recognized by a postsecondary institution).

Study-abroad, internships and other events that occur off-campus that are not part of a University Program or Activity, or happen outside the United States, are not covered by this Policy but may be subject to other University policies, codes of conduct or rules. Evangel reserves the right to address conduct that does not fall under this Policy through separate policies, codes of conduct or rules, such as,

without limitation, in the Student Handbook, the Faculty Handbook, Employee Handbook or otherwise.

Individuals with workplace, academic, or other concerns not covered by this Policy have other resources to address them. For Employees, these may include their managers or the Director of Human Resources. For Students, this may include their advisors, administrators in their departments or schools.

In cases where Title IX does not apply, the University may adjudicate complaints based on established disciplinary procedures.

We encourage individuals to report sexual harassment to the university, as well as to appropriate law enforcement officials, so that we may care well for our community members. Contact the Title IX Coordinator, Deputy Coordinator, or Office of Public Safety to report any sexual harassment offenses. This community includes, but is not limited to, students, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers.

III. DEFINITIONS

These Title IX Procedures incorporate the definitions set forth in the *Title IX Policy* unless a term is otherwise specifically defined within these Procedures.

IV. TIMELINES

The University identifies designated timelines throughout these Title IX Procedures. Generally, the University will complete its process from Formal Complaint through the completion of an Investigation Report in 90 days, and from the Investigation Report through the Hearing Officer's Written Notification of Outcome in an additional 45 days thereafter. In the event of an appeal, it will generally take 20 days from the filing of an appeal statement (and response, if any) through a decision from the appellate decision maker.

In extenuating circumstances, the Title IX Office has authority to extend such timelines. In the case of such an extension, the Title IX Office will notify the affected parties of the extension, including the reason(s) for the extension. Examples of extenuating circumstances include the complexity of the case, delays due to holiday or University breaks, the unavailability of parties or witnesses, and inclement weather or other unforeseen circumstances. Unless otherwise indicated as "calendar days," all timeframes in these Procedures refer to business days. The phrase "business days" refers to those days ordinarily recognized by the Evangel University administrative calendar as workdays.

V. INTAKE PROCESS FOR REPORTS OF TITLE IX POLICY VIOLATION

Confidential and supportive resources, and information about anonymous reporting, is available in the Title IX Policy. One of the following individuals will receive any non-confidential report of a Title IX Policy violation.

Title IX Coordinator: Rev. Mark Entzminger, Vice President for Student Development, Office: Cantrell Student Union, 106, 1111 N. Glenstone, Springfield, MO 65802, Phone: (417) 865-2815, ext. 7997, entzmingerm@evangel.edu.

Title IX Deputy Coordinator (for employees): Robert Bartels, Director of Human Resources, Office: Riggs Hall, 309, Phone: (417) 865-2815, ext. 7311, bartelsr@evangel.edu

Title IX Deputy Coordinators (for students): Office: Cantrell Student Union 106,

Gina Rentschler, Director of Student Programming, (417) 865-2815, ext. 7317, rentschlerg@evangel.edu

Steve Gause, Dean of Students, (417) 865-2815, ext. 7409, gausest@evangel.edu

Immediate assistance is available 24/7 by calling the Evangel University Office of Public Safety at (417) 575-8911, (on campus phone 911) or coming in person to Riggs Hall 208. An officer can assist in facilitating medical treatment, contacting a victim's advocate, support person, Title IX Coordinator, and/or member of the counseling staff, as well as reporting the crime to local law enforcement (if requested).

Additionally, anonymous reports can be made by using the online reporting form (evangel.edu/tixreporting). Anonymous reports may prompt a need for the institution to investigate; however, the university may be limited in the investigation and outcome of such reports.

Once a report of a possible Title IX Policy violation is made, the Office of Title IX, in consultation as necessary with the Title IX Deputies, shall review the report to determine next steps, including when a Formal Complaint is filed at the same time as a report is made.

If the allegations reported, if true, would not constitute a Title IX Policy violation under the Title IX Policy, the Title IX Office will, as appropriate: (1) review and address the report under other University policies, codes of conduct or rules, if applicable; (2) refer the matter, as appropriate, to the Dean of Students, Director of Human Resources, or other appropriate University office or administrator; or (3) take no further action, if the reported conduct would not constitute a violation of any University policy, code of conduct or rule. In these instances, the Title IX Coordinator will notify the Complainant of the action or referral.

After receiving a report of a possible Title IX Policy violation, the Title IX Coordinator will promptly contact the Complainant and –

- A. explain that Supportive Measures are available with or without the filing of a Formal Complaint;
- B. assist the Complainant in availing themselves of Supportive Measures if requested;
- C. inform the Complainant of the process for filing a Formal Complaint;
- D. inform the Complainant that even if they decide not to file a Formal Complaint, the Title IX Coordinator may do so on the Complainant's behalf in rare circumstances where the Title IX

Coordinator determines it is necessary to protect the safety and well-being of the campus community; and,

- E. inform the Complainant that if a Formal Complaint is not signed and submitted, the University cannot initiate the Title IX Resolution Procedures.

The Title IX Coordinator will also ensure that the Complainant receives a written explanation of available resources and options, including the following:

- A. Support and assistance available through University resources, including the Complainant's option to seek Supportive Measures regardless of whether they choose to participate in a University or law enforcement investigation;
- B. The Complainant's option to seek medical treatment and information on preserving potentially key forensic and other evidence;
- C. The University's procedural options under the Title IX Policy, including Informal Resolution and Formal Resolution;
- D. The Complainant's right to an advisor of the Complainant's choosing;
- E. The University's prohibition of Retaliation against the Complainant, the Respondent, the witnesses, and any Reporting Party, along with a statement that the University will take prompt action when Retaliation is reported (and how to report); and
- F. The opportunity to meet with the Title IX Coordinator (or designee) in person to discuss the Complainant's resources, rights, and options.

VI. THE FORMAL COMPLAINT

A Complainant has the option to file a Formal Complaint against a Respondent alleging a Title IX Policy violation and requesting that the University investigate those allegations. In rare cases, the Title IX Coordinator, in their sole discretion, may also decide to file a Formal Complaint of Title IX Policy violation where the Complainant chooses not to do so if the failure to file a Formal Complaint would constitute deliberate indifference to possible Title IX Policy violation in the Title IX Coordinator's judgment or if the allegations, if true, would have a negative impact on campus safety and/or security.

To become effective, a Complainant (or the Title IX Coordinator) must sign and submit a Formal Complaint. These Title IX Resolution Procedures can only be initiated if a Formal Complaint is signed and submitted by a Complainant or the Title IX Coordinator.

When the Title IX Coordinator receives a Formal Complaint of a Title IX Policy violation, the complaint must meet the definition of a violation according to the Title IX Policy. If the Title IX Coordinator determines that the conduct, if true, constitutes a Title IX Policy violation under the Title IX Policy, they shall proceed to address the matter pursuant to these Title IX Procedures.

If the Title IX Coordinator investigates the matter and determines that the conduct is not a Title IX Policy violation, they may dismiss the Formal Complaint for Title IX purposes and instead may pursue the matter under another University policy, code of conduct or rule.

Once a Formal Complaint is signed and submitted, the Complainant and Respondent will receive written **Notice of Allegations**; the Notice will contain the following information:

- A. Notice of the allegations of sexual harassment potentially constituting sexual harassment, the Title IX Policy, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview.
- B. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under the Title IX Policy, and the date and location of the alleged incident, if known.
- C. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- D. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review evidence.
- E. The written notice must inform the parties of any provision in the University's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- F. Information regarding the availability of Supportive Measures through University resources and the opportunity to meet with the Title IX Coordinator (or their designee) in person to discuss resources, rights, and options;
- G. Notice of the University's prohibition of Retaliation against the Complainant, the Respondent, witnesses and any other Reporting Party; that the University will respond promptly when Retaliation is reported; and how to report acts of Retaliation.
- H. A statement that the Respondent is presumed not responsible for the alleged Title IX policy violation and a statement that any determination regarding responsibility is made only at the conclusion of the Formal TIX Procedures.

If, during an investigation, the Title IX Coordinator decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written notice, the Coordinator will provide an amended Notice of Allegations to the parties.

DISMISSING A FORMAL COMPLAINT

The recipient **MUST** dismiss the allegations in a formal complaint;

- A. If the conduct alleged in the formal complaint would not constitute sexual harassment under the Title IX Policy even if proved,
- B. did not occur in the University's education program or activity, or
- C. did not occur against a person in the United States,

Such a dismissal does not preclude action under another provision of Evangel's code(s) of conduct.

The recipient **MAY** dismiss the formal complaint or any allegations therein,

- A. if at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
- B. the Respondent is no longer enrolled or employed by the University; or
- C. specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal, required or permitted, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties. If the Title IX Coordinator determines that a Formal Complaint of Title IX Policy violation should be dismissed for any of these reasons, either party may appeal that decision as explained in the **Appeal** section below.

VII. ADVISORS

The Complainant and a Respondent may each have an advisor of their choice to provide support and guidance. An advisor may accompany the Complainant/Respondent to any meeting with the Office of Title IX staff or designee, investigator, and/or during meetings for Informal Resolution, and to the hearing. Prior to the hearing, a party's advisor has an exclusively non-speaking role, and may not otherwise present evidence, argue, or assert any right on behalf of the party.

At the hearing, an advisor may not speak for the party they are advising or address any other participant or the hearing officer except as necessary to conduct cross-examination as explained below in Section X. An advisor's role is otherwise limited to quietly conferring with the Complainant/Respondent through written correspondence or whisper. If a party does not select an advisor of choice for the hearing, Evangel will provide an advisor trained to ask questions, but such advisor will be provided only for the hearing portion of the process.

The University (including any official acting on behalf of the University, such as the Hearing Officer) has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with the Policy and Procedures, including by placing limitations on the advisor's ability to participate in future meetings and proceedings.

VIII. INFORMAL TITLE IX PROCEDURES: INFORMAL RESOLUTION

Informal Resolution is a process that usually does not include an investigation or hearing under the Formal Title IX Procedures (the "Informal Resolution"). Remedies available through the Informal Resolution Process may include appropriate and reasonable educational, restorative, and accountability-focused measures as agreed to by the parties and approved by the Title IX Coordinator. A Formal Complaint is necessary to utilize the Informal Resolution Process, but the Informal Resolution Process is only available if both the Complainant and Respondent provide specific written confirmation to the Title IX Coordinator of their desire to utilize this process.

Informal Resolution is typically a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other affected community members that seeks to

identify and meet the needs of the Complainant while providing an opportunity for the Respondent to acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the University community. Examples of the types of remedies available through the Informal Resolution process are described in the Title IX Policy.

The Informal Resolution is not available in cases involving a Student Complainant and Employee Respondent.

The Title IX Office reserves the right to determine whether Informal Resolution is appropriate in a specific case. Before the Title IX Office commences the Informal Resolution process, both parties must provide informed consent in writing. In addition, where both parties and the University determine that Informal Resolution is worth exploring, the University will provide the parties with a written notice disclosing:

- A. the Formal Complaint
- B. the requirements of the Informal Resolution process, including the circumstances that may preclude resuming Formal Title IX Procedures;
- C. the parties' right to withdraw from the process prior to a resolution being reached; and
- D. any consequences resulting from participating or withdrawing from the process, including the records that may be maintained by the University.

At any time prior to reaching a resolution, either party may withdraw from the Informal Resolution process and proceed with the formal grievance process for resolving the Formal Complaint.

Once an Informal Resolution is signed by both parties, the Title IX Coordinator will communicate that the matter has been resolved with both parties. The resolution cannot be appealed and is binding, and the parties are precluded from resuming or starting Formal Title IX Procedures related to that Formal Complaint (they are not precluded from filing complaints regarding possible Title IX Policy violation that occurs after the conduct reported in the Formal Complaint). Evangel will enforce the terms of an Informal Resolution agreement.

IX. FORMAL TITLE IX PROCEDURES

The procedures described in Section IX referred to throughout these Procedures as the "**Formal Title IX Procedures**").

THE INVESTIGATION

An investigation affords both the Complainant and the Respondent an opportunity to submit information and other evidence and to identify witnesses in connection with the alleged Title IX Policy violation.

When these Formal Title IX Procedures are initiated, the Title IX Coordinator will designate an investigator who will be responsible for gathering evidence directly related to the allegations raised in a Formal Complaint. The investigator must be impartial, free of any actual conflict of interest, and have

specific and relevant training and experience. Specifically, the investigator will be trained on (1) issues of relevance; (2) the Title IX Policy; (3) how to conduct an investigation; and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

A Complainant or a Respondent who has concerns that the assigned investigator cannot conduct a fair and unbiased review (e.g., has a personal connection with one of the parties or witnesses, etc.) may report those concerns to the Title IX Coordinator, who will assess the circumstances and determine whether a different investigator should be assigned to the matter.

INTERVIEWS.

The investigator will interview the Complainant and Respondent to review the documents provided by the parties and to gather facts relevant to the Formal Complaint. The investigator will also interview witnesses identified by the parties as likely to have relevant information about the Formal Complaint. Where the investigator deems necessary, they may interview an individual more than once. Before any interview, the individual being interviewed will be informed in writing of the date, time, location, participants, and purpose of the interview. Such notice will be provided 24 hours in advance so the individual can prepare for the interview.

EVIDENCE.

Each party will be given the opportunity to identify witnesses and to provide other relevant information, such as documents, communications, photographs, and other evidence. All parties are expected to share any relevant information and/or any information that is requested by the investigator.

The investigator will review all information identified or provided by the parties as well as any other evidence they obtain and will determine the relevance of the information received during the investigation. Evidence obtained as part of the investigation that is directly related to the allegations in the Formal Complaint will be shared with the parties for their review and comment, as described below.

The Title IX Office, the investigator, or the Hearing Officer, as appropriate, may exclude and/or redact certain evidence that will not be shared with the parties:

- A. Information that is not directly related to the allegations in the Formal Complaint
- B. Sensitive personally-identifying information (e.g., social security numbers, contact information, etc.).

DRAFT INVESTIGATIVE REPORT.

After all known, available, and relevant evidence is gathered and interviews completed, the investigator will prepare a draft investigative report. The investigator will make available to each party, and the party's advisor, if any, the draft investigative report. The investigator will also make available to the parties, and their advisors, if any, all evidence that was gathered during the investigation that is directly related to the allegations of the Formal Complaint subject to the limitations above.

The parties will have ten days to inspect and review the evidence and the draft investigative report and submit a written response. This is the parties' opportunity to provide any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they wish considered for inclusion in the final investigative report. The investigator will review the feedback to the report, interview additional relevant witnesses (as the investigator deems appropriate) and make changes/additions to the report as determined by the investigator. The parties' feedback will be attached to the final investigation report.

Any party providing new evidence in their response to the draft investigative report must identify whether that evidence was previously available to them, and if not, why it was not available and/or why it was not previously provided. Generally, only information that is provided to, or otherwise obtained by, the investigator prior to the completion of the final investigative report may be considered by the Hearing Officer as part of the determination of whether a Policy violation occurred. Any information not provided to the investigator prior to the final investigation report will not be allowed during the hearing unless the party offering the evidence can clearly demonstrate that such information was not reasonably available to the parties at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation.

Within the same ten business days, the Complainant and Respondent must also submit in writing the names of any witnesses they wish to testify and a summary of information each witness would provide through their testimony. Names of witnesses provided by the parties will be shared with the other party.

FINAL INVESTIGATIVE REPORT.

After the 10-day review and response period has expired, the investigator will complete a final investigative report. The investigator's final report will then be shared with the Complainant, Respondent, and their advisors.

The matter will then be referred to a Hearing Officer.

X. HEARING PROCEDURES

The Hearing Officer will be selected by the University and will receive annual training on the following: how to conduct a hearing; issues of relevance, including when questions and evidence are not relevant; how to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, bias; and other relevant issues. The Hearing Officer will also be trained on any technology that might be used during a hearing.

The Hearing Officer serves as the Chair of the Decision-Making Panel ("**Decision Makers**"), a group of three unbiased individuals who have not been involved in the case prior to this point and are appointed by the University. Their role is to hear testimony, review evidence, make the determination regarding responsibility of Title IX Policy violation, and assign appropriate sanctions.

NOTICE OF HEARING.

Both the Complainant and the Respondent will be notified in writing of the date and time of the hearing and the name of the Decision Makers at least five calendar days in advance of the hearing, with the hearing to occur no fewer than ten calendar days after the parties are provided the Final Investigative Report. The Decision Makers will receive the names of the Complainant and the Respondent at the same time.

BIAS AND CONFLICT OF INTEREST.

The Decision Makers must be impartial and free from bias or conflict of interest, including bias for or against a specific Complainant or Respondent or for or against Complainants and Respondents, generally. If the any of Decision Makers have concerns that they cannot conduct a fair or unbiased review, those concerns must be reported to the Title IX Coordinator and a different individual will be assigned.

A Complainant and/or Respondent may challenge the participation of any of the Decision Makers because of perceived conflict of interest, bias, or prejudice.

Such challenges, including rationale, must be made within 48 hours of notification of the name of the Decision Makers. At its discretion, The Title IX Coordinator will determine whether such a conflict of interest exists and whether the Decision Makers should be replaced. Postponement of a hearing may occur if a replacement Decision Maker cannot be immediately identified.

ADVISORS.

Both parties must be accompanied by an advisor to the hearing. If a party does not have an advisor for the hearing, the University will provide an advisor for that party. Each party's advisor must conduct any cross-examination of the other party and any witnesses. Apart from conducting cross-examination, an advisors' participation is limited to conferring with the party at intervals set by the Hearing Officer.

PARTICIPATION OF THE PARTIES AND WITNESSES.

A party or witness who elects to participate in the process is expected, although not required, to participate in all aspects of the process (e.g., a witness who chooses to participate in the investigation is expected to make themselves available for a hearing if requested to do so).

If a party or witness elects to not participate in the live hearing or participates in the hearing but refuses to answer any relevant question(s) (even one) posed by the other party through their advisor, the Decision Makers must not rely on any statement of that party or witness in reaching a determination regarding responsibility. The Decision Makers will never draw any inferences based solely on a party's or witness's absence or refusal to answer questions.

"Statements" for purposes of the hearing are factual assertions made by a party or witness and do not themselves constitute alleged Title IX Policy violations. Statements might include factual assertions made during an interview or conversation, written by the individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g. in an investigative report, police report, or medical record).

If a party does not appear for the hearing, their advisor may still appear for the purpose of asking questions of the other party and witnesses. If a non-participating party's advisor also does not appear for the hearing, the University will appoint an advisor to participate in the hearing for the purpose of asking questions of the other party on behalf of the non-participating party.

Consistent with the prohibition on Retaliation, intimidation, threats of violence, and other conduct intended to cause a party or witness to not appear for a hearing are expressly prohibited.

WITNESSES.

The Hearing Officer may, at their discretion, exclude witnesses or witness testimony they consider irrelevant or duplicative.

ELECTRONIC DEVICES.

A Respondent, Complainant, advisor, and/or witness may not have electronic devices that capture or facilitate communication (e.g., computer, cell phone, audio/video recorder, etc.) in their possession while participating in the hearing unless authorized by the Hearing Officer and disclosed to all parties present. The Title IX Office will make an audio recording of the hearing to be made available to the parties for review. Reasonable care will be taken to create a quality audio recording and minimize technical problems; however, technical problems that result in no recording or an inaudible recording are not a valid basis for appeal.

HEARING LOCATION AND USE OF TECHNOLOGY.

The hearing will be live, with all questioning conducted in real time. Upon request of any party, the parties may be located in separate rooms (or at separate locations) with technology enabling the Decision Makers and the parties to simultaneously see and hear the party or witness answering questions. A hearing may be conducted entirely virtually through remote technology so long as the parties and Decision Makers are able to hear and see one another in real time.

PRE-HEARING PROCEDURES AND GROUND RULES.

The Hearing Officer and/or the Title IX Coordinator may establish pre-hearing procedures relating to issues such as scheduling, hearing procedures, witness and advisor participation and identification, structure, advance determination of the relevance of certain topics, and other procedural matters. The Hearing Officer will communicate with the parties prior to the hearing with respect to these issues and establish reasonable, equitable deadlines for party participation/input.

The Hearing Officer also has wide discretion over matters of decorum at the hearing, including the authority to excuse from the hearing process participants who are unwilling to observe rules of decorum.

HEARING PROCEDURES.

The Hearing Officer has general authority and wide discretion over the conduct of the hearing (e.g., they may set time frames for witness testimony and may limit opening/closing statements or their length,

etc.). Although the Hearing Officer has discretion to modify it, the general course of procedure for a hearing is as follows:

- A. Introductions;
- B. Respondent's statement accepting or denying responsibility;
- C. Opening Statement from the Complainant;
- D. Opening Statement from the Respondent;
- E. Questioning of the Complainant by the Hearing Officer;
- F. Cross-examination of the Complainant by the Respondent's advisor;
- G. Questioning of the Respondent by the Hearing Officer;
- H. Cross-examination of the Respondent by the Complainant's advisor;
- I. Hearing Officer questioning of other material witnesses (if applicable);
- J. Cross-examination of other material witnesses by the parties' advisors;
- K. Closing comments from the Complainant; and,
- L. Closing comments from the Respondent.

The Complainant or Respondent may not question each other or other witnesses directly; they must conduct the cross-examination through their advisors. Before a party or witness answers a cross-examination or other question, the Hearing Officer will first determine whether the question is relevant. The Hearing Officer may exclude irrelevant information and/or questions. The Hearing Officer will explain any decision to exclude a question or information as not relevant. The Hearing Officer's determination on relevance is not subject to objection or argument at the hearing.

The evidence directly related to the allegations that is collected as part of the investigative process will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

DETERMINATION OF RELEVANCE.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

DETERMINATION OF RESPONSIBILITY.

Following the hearing, the Decision Makers (simple majority vote) will consider all relevant evidence and determine, by a Preponderance of the Evidence Standard, whether the Respondent has violated the Policy. A preponderance of the evidence standard means that, based on the information acquired during

the investigation and the hearing, it is more likely than not the Respondent engaged in the alleged conduct.

REMEDIES AND SANCTIONS.

In the event the Decision Makers find the Respondent responsible for a violation of the Policy, appropriate remedies and sanctions will be determined by Decision Makers, as described below. Remedies are designed to restore or preserve equal access to the University's Education Program or Activity. Remedies may be disciplinary or punitive.

When there is a finding of responsibility on one or more of the allegations, the Decision-makers may then consider the previously submitted party impact statements in determining appropriate sanction(s). The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-makers may, at their discretion, consider the statements, but they are not binding.

Sanctions considered by the Decision Makers for student Respondents include Warning, Probation, Suspension, Dismissal, Withholding Diploma, Revocation of Degree, and Other Actions.

Sanctions considered by the Decision Makers for employee Respondents include Warning, Performance Improvement Plans, Training or Education, Probation, Denial of Pay Increase or Pay Grade, Loss of Supervisory Responsibilities, Delay of Tenure-Track Progress, Suspension with/without Pay, Termination, and Other Actions.

For more information regarding sanctions, see the Title IX Policy, Appendix C.

Upon a finding of responsibility, the Complainant will be provided with remedies designed to restore access to the University's educational and employment programs and activities. The sanctions will be implemented as soon as is feasible, either at outcome of any appeal or expiration of the window to appeal when appeal is not requested. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by external authorities.

NOTICE OF OUTCOME.

After a determination regarding responsibility and, if applicable, a determination regarding appropriate remedies and/or sanctions has been made, the Complainant and Respondent will receive a simultaneous Notice of Outcome including the decision regarding responsibility and, as applicable, remedies and sanctions. The written notification will include the following: (§ 106.30... (b)(7)(ii) Appeals.

- A. Identification of the allegations potentially constituting the Title IX Policy violation;
- B. A description of the procedural steps taken from the receipt of the Formal Complaint, through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- C. Findings of fact supporting the determination;
- D. Conclusions regarding the application of the Title IX Policy;

- E. A statement of and rationale for each determination regarding responsibility and any disciplinary sanctions the University imposes on the Respondent, and whether remedies designed to restore or preserve equal access to employment or a University's Program or Activity will be provided by the University to the Complainant; and
- F. The University's procedures and permissible bases for the Complainant and Respondent to appeal.

The written notification of outcome becomes final five (5) business days after the date that it is sent to the parties unless an appeal is filed on or before that day.

XI. APPEALS

The Respondent and Complainant each have a right to appeal (1) the Title IX Office decision to dismiss a Formal Complaint and/or (2) the Decision Maker Panel decision regarding responsibility.

A party wishing to appeal the Title IX Office decision to dismiss a Formal Complaint must file a written appeal statement within five (5) business days of the date the decision to dismiss is communicated to the parties. An appeal of a dismissal of a Formal Complaint will be decided by a Title IX Deputy not previously involved in the case or the Chief Academic Officer if none exist.

A party wishing to appeal the Decision Maker Panel decision must file a written appeal statement within five (5) business days of the date the written decisions is sent to the parties. Appeals are limited to five pages (12-point font, 1-inch margins). The appeal statement must identify the ground(s) for appeal upon which the appeal is being made. The three available grounds for appeal are:

- A. New information not reasonably available at the time of the decision/hearing that could affect the outcome of the matter;
- B. The Title IX Coordinator, investigator, or Decision Makers, had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent specifically that affected the outcome of the matter; and/or
- C. Procedural error(s) that materially affected the outcome of the matter.

An appeal is not a re-hearing of the case. The University may summarily deny an appeal if it is not based on one of the enumerated grounds for appeal.

NOTICE OF OUTCOME APPEAL.

A panel chosen from the Grievance Pool will be designated by the Title IX Coordinator to review any appeal stated in the *Notice of Outcome*. No appeal panelists will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Chair for consideration to determine if it meets the grounds for appeal (a Review for Standing). This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Chair and the parties, and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses will be shared with the Appeal Panel, and the [Chair/Panel] will render a decision in no more than 5 business days, barring exigent circumstances. [All decisions are by majority vote] and apply the preponderance of the evidence standard.

A *Notice of Appeal Outcome* will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the university is permitted to share according to state or federal law, and the rationale supporting essential findings to the extent the university is permitted to share under state/federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local address of the parties as indicated in official institutional records, or emailed to the parties' university-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

SANCTIONS STATUS DURING THE APPEAL

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above. If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

WRITTEN DECISION.

The Appeal Chair will provide written notification of the final decision to both parties simultaneously. The Appeal Chair will typically notify the parties of its decision regarding an appeal in writing within five business days from receipt of the appeal statement. If the decision will take longer, the parties will be informed. The decision of the appellate officer will be final, and no subsequent appeals are permitted.

XII. CONFIDENTIALITY

The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Title IX Policy violation, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as disclosure may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

XIII. RECORDS RETENTION

The university will maintain for a period of seven years records of:

- A. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- B. Any disciplinary sanctions imposed on the Respondent;
- C. Any remedies provided to the Complainant designed to restore or preserve equal access to the university's education program or activity;
- D. Any appeal and the result therefrom;
- E. Any Informal Resolution and the result therefrom;
- F. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. Evangel will make these training materials publicly available on our website; and
- G. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the university's education program or activity; and
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Evangel will also maintain any and all records in accordance with state and federal laws.