

The Seattle School of Theology & Psychology

Title IX Policy & Procedures (2020 Rule Change)

Last Updated 03/4/2024

Introduction

Purpose of the Present Title IX policy/regulations

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to any educational program or activity receiving federal financial assistance. The US Department of Education, which enforces Title IX, has interpreted Title IX's prohibition on sex discrimination to prohibit various forms of sexual harassment and sexual violence that interfere with a student's ability to access educational programs and opportunities.

On May 19, 2020, the US Department of Education issued a Final Rule under Title IX of the Education Amendments of 1972. The Final Rule is effective August 14, 2020. The Final Rule:

- Defines the meaning of "sexual harassment" (including forms of sex-based violence)
- Addresses how The Seattle School must respond to reports of misconduct falling within that definition of sexual harassment, and;
- Mandates a grievance process that The Seattle School must follow to comply with the law in these specific covered cases before issuing a disciplinary sanction against a person accused of sexual harassment.

The full text of the Final Rule and its extensive Preamble is available [here](#).

Impact of Present Title IX policy/regulations on Other Campus Disciplinary Policies

In recent years, "Title IX" cases have become a short-hand for any campus disciplinary process involving sex-based discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, The Seattle School must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that it must subject to its Title IX investigation and adjudication process.

Only incidents that fall within the Final Rule's definition of sexual harassment and jurisdictional requirements will be investigated under the following Title IX policy and, if appropriate, brought to a live hearing.

The Seattle School remains committed to addressing any violations of its policies, including those not falling within Title IX's scope.

Two other policies used to adjudicate behavior not captured under Title IX:

- The Seattle School's Student Handbook includes a Student Complaint Policy and a Nondiscrimination, Harassment, Sexual Harassment and Sexual Violence Policy, which apply to all students and defines particular behaviors that violate campus policy; and
- The Seattle School's Employee Handbook applies to all employees, defining and prohibiting sexual harassment and misconduct. It outlines the procedures for investigating and resolving those violations.

To the extent that alleged misconduct falls outside the present Title IX policy/regulations, The Seattle School retains the authority to investigate and resolve the allegations under the policies and procedures defined within other applicable School policies.

General Rules of Application

Effective Date

The present Title IX policy/regulations became effective on August 14, 2020, and will only apply to sexual harassment alleged to have occurred on or after August 14, 2020.

Non-Discrimination in Application

This policy's requirements and protections apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law or the school's non-discrimination policy. All requirements and protections are equitably provided to individuals regardless of status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using the contact information available [here](#).

Definitions

Sexual Misconduct

Sexual misconduct is a form of sex discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended ("Title IX") and Title VII of the Civil Rights Act of 1964 as amended, and also may constitute criminal activity. Sexual misconduct is an umbrella term that includes sexual and gender-based harassment or discrimination, sexual assault, dating violence, domestic violence, sexual exploitation, and stalking.

Sex-based Discrimination

Protected Statutes at The Seattle School:

- Gender: an individual's socially-constructed status based on the behavioral, cultural, or psychological traits typically associated with societal attribution of masculinity and femininity, typically related to one's assigned sex at birth.
- Gender Expression: how someone expresses gender through appearance, behavior, or mannerisms. A person's gender expression may or may not be the same as their gender identity or assigned sex at birth.
- Gender Identity: the gender with which an individual identifies psychologically, regardless of what gender was assigned at birth.
- Sex: an individual's biological status e.g. male, female, intersex. Conduct of a sexual nature is by definition based on sex as a protected status.

- Sexual Orientation: the inclination or capacity to develop intimate emotional, spiritual, physical, and/or sexual relationships with people of the same sex or gender, a different sex or gender, or irrespective of sex or gender.

Discrimination is any unlawful distinction, preference, or detriment to an individual as compared to others that is based on an individual's protected status as defined above, and that is sufficiently serious to unreasonably interfere with or limit:

- Access to employment or conditions and benefits of employment (e.g., hiring, advancement, assignment);
- A student's or admission applicant's ability to participate in, access, or benefit from educational programs, services, or activities (e.g., admission, academic standing, grades, assignments, campus housing, athletics, student internships or employment);
- Ability to participate in a volunteer activity; or
- Ability to participate in, access, or benefit from the School's programs.

Sexual Harassment x

For the purposes of this Policy, "sexual harassment" includes any conduct on the basis of sex that satisfies one or more of the following:

- An employee conditioning the provision of an aid, benefit, or service of the School on participation in unwelcome sexual conduct (i.e., quid pro quo);
- Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the The Seattle School's education program or activity;
- Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim/survivor, including instances where the victim/survivor is incapable of giving consent;
- Dating violence (as defined in the Violence Against Women Act amendments to the Clery Act), which includes any violence committed by a person: who is or has been in a social relationship of a romantic or intimate nature with the victim/survivor; and where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.
- Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim/survivor, by a person with whom the victim/survivor shares a child in common, by a person who is cohabitating with or has cohabitated with the victim/survivor as a spouse or intimate partner, by a person similarly situated to a spouse of the victim/survivor under Washington's domestic or family violence laws or by any other person against an adult or youth victim/survivor who is protected from that person's acts under the domestic or family violence laws of Washington.
- Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the Code of Student Conduct, Employee Handbook, or other school policies.

Consent

For this Policy's purposes, "consent" means knowing, voluntary, and explicit permission, through word or action, to engage in mutually agreed-upon sexual activity or contact. Silence or lack of resistance alone does not constitute consent. Consent must be ongoing, and it may be withdrawn at any time. Consent to one form of sexual activity or contact does not imply others' consent, nor does past consent imply present or future consent. Consent to engage in sexual activity or contact with one person does not imply consent to engage in sexual activity or contact with another person.

Consent cannot result from the use of coercion, intimidation, force, or threats. Consent cannot be obtained from an individual who is incapable of giving consent because the person:

- Is under the legal age to give consent (16 years of age in Washington); or
- Has a mental, intellectual, or physical disability that renders them incapable of giving consent; or
- Is otherwise incapacitated (as defined below), including through the consumption of alcohol or drugs.

Incapacitation is a state in which individuals cannot make informed, rational decisions because they cannot understand the "who, what, when, where, why, or how" of a situation or interaction. Individuals cannot consent if they cannot understand what is happening or if they are disoriented, helpless, asleep, or unconscious for any reason. That applies even if alcohol or drugs were voluntarily consumed.

Individuals who engage in sexual activity or contact who know or should have known that the other Party is incapacitated are engaging in sexual misconduct. Physical incapacitation indicators may include slurred speech, unsteady gait or stumbling, impaired coordination, unfocused or bloodshot eyes, vomiting, unresponsiveness, or outrageous or unusual behavior.

Education Program or Activity

For the purposes of this Policy, The Seattle School's "education program or activity" includes:

- Any on-campus premises;
- Any off-campus premises that The Seattle School has substantial control over; and
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by or used in the operations of The Seattle School's programs and activities over which the Seattle School has substantial control.

Formal Complaint

For the purposes of Policy, "Formal Complaint" means a document—including an electronic submission—filed by a Complainant with a signature or other indication that the Complainant is the person filing the Formal Complaint, or signed by the Title IX Coordinator or designee, alleging sexual harassment against a Respondent about conduct within The Seattle School's education program or activity and requesting initiation of the procedures consistent with this Policy and its grievance process to investigate the allegation of sexual harassment.

Complainant

Complainant means any individual who has reported being alleged to be the victim/survivor of conduct that could constitute sexual harassment as defined under this Policy.

Respondent

Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment as defined under this Policy.

Relevant evidence and questions

"Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

"Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of these grievance procedures:

Evidence and questions about the Complainant's sexual predisposition or prior sexual behavior unless:

- They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
- They concern specific incidents of the Complainant's prior sexual behavior concerning the Respondent and are offered to prove consent.

Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege, such as the attorney-client privilege.

Any Party's medical, psychological, and similar records unless the Party has given voluntary, written consent.

Making a Report to the Institution Regarding Sexual Harassment

Any person may report sexual harassment (whether or not the person reporting is the person alleged to be the victim/survivor of conduct that could constitute sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Reports may be begin with contacting any of the designated Campus Security Authorities (CSAs), including:

- Daniel Walkup, Safety & Facilities Manager; Title IX Coordinator, (206) 876-6148, dwalkup@theseattleschool.edu
- Kartha Heinz, Vice President of Human Resources, (206) 876-6131, kheinz@theseattleschool.edu
- Becca Shirley, Manager of Student Life Programs, (206) 876-6137, rshirley@theseattleschool.edu
- Daniel Tidwell-Davis, Director of Student & Academic Services (206) 876-6135, dtidwell@theseattleschool.edu
- Dr. Doug Shirley, Director of Listening Lab, (206) 876-6145 , dshirley@theseattleschool.edu

Depending on the nature of the report, it will be forwarded to the appropriate department or person.

Contact Information for Title IX Coordinator:

- Title IX Coordinator: Daniel Walkup, Safety & Facilities Manager
 - dwalkup@theseattleschool.edu, (206) 876-6107
- Deputy Title IX Coordinators / Grievance Officers
 - Employees - Kartha Heinz, Vice President of Human Resources
 - kheinz@theseattleschool.edu, (206) 876-6131
 - Students - Becca Shirley, Manager of Student Life Programs
 - rshirley@theseattleschool.edu, (206) 876-6137

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address or by mail to the office address listed for the Title IX Coordinator.

Training for Title IX Coordinator and Grievance Officers

Under the 2020 Title IX regulations, the training of Title IX personnel must include:

- The definition of sexual harassment;
 - The scope of the recipient's education program or activity;
 - How to conduct an investigation and grievance process including hearings, appeals, and alternate resolution processes under this policy, as applicable,
 - How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- Decision-makers must receive additional training on:
 - Live hearing technology; and
 - Determining relevance of questions and evidence, including the proper screening of evidence about a complainant's prior sexual behavior or predisposition.
- Investigators must receive additional "training on issues of relevance to create an investigative report that fairly summarizes relevant evidence." 34 C.F.R. 106.45(b)(1)(iii).

Privacy in Reporting

Title IX is a non-confidential reporting office. The wishes of the Complainant are always considered and weighed against community safety. Disclosure of private information is limited to reasonable necessity when assessing matters.

Supportive Measures Available Under This Policy

Complainants have the right to receive supportive measures from The Seattle School regardless of whether they desire to file a complaint. (For support related to situations that do not qualify as title IX, see [Nondiscrimination Policy and Grievance Procedures](#)). Supportive measures are non-disciplinary and non-punitive.

Possible supportive measures may include, but are not limited to:

- Supportive conversation with a member of the Student & Academic Services staff (e.g. Becca Shirley, Manager of Student Life Programs).

- Information about confidential, off-campus support (e.g. therapy referrals, hotlines, resource centers, support groups);
- Extensions of deadlines excused absences or other course-related adjustments;
- Modifications of on-campus work or class schedules;
- No communication/contact orders;
- Work or classroom accommodations; and
- Information about confidential medical resources.

Safety Measures

- Assistance in reporting the matter to the police and procuring a no-contact order;
- Police reporting is not required, but some incidents require a campus notification per the Clery Act; and
- Walking escort to a personal vehicle (some geographic limitations apply).

Emergency Removal

The Seattle School retains the authority to remove a Respondent from The Seattle School's program or activity on an emergency basis, where The Seattle School:

- Undertakes an individualized safety and risk analysis; and
- Determines that an immediate threat to any student or other individual's physical health or safety arising from the allegations of sexual harassment justifies a removal.
- Emergency Removal does not prohibit the individual's right to a hearing.

Administrative Leave

Seattle School retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Process, consistent with the Employee Handbook.

Title IX Grievance Process

Filing a Formal Complaint

The timeframe for the Title IX grievance process under this Policy begins with the filing of a Formal Complaint. The Title IX grievance process will be concluded within a reasonably prompt manner. The process may be extended for good reason, including but not limited to the absence of a Party, a Party's advisor, or a Witness; concurrent law enforcement activity; or the need for language assistance or an accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator or the Coordinator's designee a written, signed complaint describing the facts alleged. Complainants can only file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of The Seattle School, including as an employee. For Complainants who do not meet these criteria, the school will utilize existing school policies.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a formal complaint is necessary. The Seattle School will inform the Complainant of this decision in writing. The Complainant need not participate in the process further but will receive all notices issued under this Policy and process.

Nothing in these Title IX policies/regulations prevents a Complainant from seeking state or local law enforcement assistance alongside the appropriate on-campus process.

Multi-Party Situations

The school may consolidate Formal Complaints alleging sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Determining Jurisdiction

The Title IX Coordinator or designee will determine if this Title IX policy/regulations should apply to the Formal Complaint.

The Title IX Coordinator or designee will first confirm that the Formal Complaint was filed by a Complainant currently participating in, or attempting to participate in, the education programs or activities of The Seattle School, including as an employee.

The policy (and its process) will apply when all of the following requirements are met, in the reasonable determination of the Title IX Coordinator or designee:

- The conduct is alleged to have occurred on or after August 14, 2020;
- The conduct is alleged to have occurred in the United States;
- The conduct is alleged to have occurred in The Seattle School's education program or activity; and
- The alleged conduct, if true, would constitute sexual harassment as defined in this Policy.

If all of the elements are met, The Seattle School will investigate the allegations according to the present Title IX policy/regulations.

Suppose any one of these elements is not met. In that case, the Title IX Coordinator or designee will notify the Parties that the Formal Complaint is being dismissed for not meeting the criteria of the Title IX policy/regulations. Each Party may appeal this dismissal using the procedure outlined in "Appeals" below.

In the event certain behavior is not covered under Title IX, it still may be adjudicated by other policies found in the school's Student Handbook or Employee Handbook.

Allegations Potentially Falling Under Two Policies:

If the alleged conduct, includes conduct that would constitute sexual harassment and conduct that would not constitute sexual harassment, the school may apply this Title IX policy/regulations to all such conduct and/or apply another School policy to conduct that falls outside this Policy.

Discretionary Dismissal of a Complaint

The Title IX Coordinator or designee may dismiss a Formal Complaint brought under the present Title IX policy/regulations, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A Complainant notifies the Title IX Coordinator or designee in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The Respondent no longer has student or employee status at The Seattle School; or,
- If specific circumstances prevent The Seattle School from gathering evidence sufficient to determine the Formal Complaint or allegations within the Formal Complaint.

Any Party may appeal a dismissal determination using the process outlined in "Appeals" below.

Notice of Complaint Dismissal

Upon deciding that the Formal Complaint will be dismissed, the school will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the Parties through their institutional email accounts. It is the responsibility of Parties to maintain and regularly check their email accounts.

Notice of Transfer

Upon dismissal for the purposes of the Title IX policy/regulations, The Seattle School retains the discretion to utilize all policies within the Employee Handbook and Student Handbook to determine if a violation has occurred. If so, The Seattle School will promptly send written notice of the dismissal of the Formal Complaint under the present Title IX policy/regulations and will transfer the allegations to the alternative conduct process.

Grievance Process Timeframe

The timeframe for the grievance process under this Policy begins with the filing of a Formal Complaint. The grievance process will be concluded within a reasonably prompt manner, provided that the process may be extended for good reason, including but not limited to the absence of a Party, a Party's advisor, or a Witness; concurrent law enforcement activity; or the need for language assistance or an accommodation of disabilities. The procedure for applying for extensions is described below.

Notice of Allegations

The Title IX Coordinator or designee will provide the Notice of Allegations to any Party to the allegations of sexual harassment. Such notice will occur as soon as practicable after the institution receives a Formal Complaint of the allegations.

The Parties will be notified by their institutional email accounts or other reasonable means.

The institution will provide sufficient time for the Parties to review the notice of allegations and prepare a response before any initial interview.

The Title IX Coordinator or designee may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above and will issue a notice of dismissal. If such a determination is made, any Party to the allegations of sexual harassment identified in the Formal Complaint will receive the notice of dismissal in conjunction with, or separate correspondence after, the notice of allegations.

Contents of Notice

The Notice of Allegations will include the following:

- Notice of the institution's Policy and a hyperlink to a copy of the process. Notice of the allegations potentially constituting sexual harassment, and sufficient details known
- When the Notice is issued, such as the identities of the Parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and a determination regarding responsibility is made after the grievance process.
- A statement that the Parties may have an advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 CFR § 106.45(b)(5)(iv);
- A statement that before the conclusion of the investigation, the Parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tend to prove or disprove the allegations, whether obtained from a Party or other source, as required under 34 CFR § 106.45(b)(5)(vi);

Ongoing Notice

Suppose in the course of an investigation; the school decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and are "sexual harassment" falling within the Policy. In that case, the school will notify the Parties whose identities are known as additional allegations by their institutional email accounts or other reasonable means.

The Parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

Participation of an Advisor

The Seattle School will provide the parties equal access to Advisors and support persons; any Advisor participation restrictions will be applied equally.

Individuals participating as Complainant or Respondent in this process may be accompanied by their Advisor to any meeting or hearing to which they are required or permitted to attend. The Advisor is not an advocate and shall not participate directly in the process.

The Seattle School will not intentionally schedule meetings or hearings on dates where the Advisors for all Parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The Seattle School's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other policies apply to matters governed under this Policy, and The Seattle School cannot agree to extensive delays solely to accommodate the schedule of an Advisor. The Title IX Coordinator or designee shall determine what is reasonable. Seattle School will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice and may offer the Party the opportunity to obtain a different Advisor or utilize a School-provided advisor.

Notice of Meetings and Interviews

The Seattle School will provide to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a Party, with sufficient time for the Party to prepare to participate.

Delay

Each Party may request a one-time delay in the process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other Parties.

For example, a request to take a five-day pause made an hour before a hearing for which multiple Parties and their advisors have prepared for will generally not be granted, while a request for a five-day pause in the middle of investigation interviews to allow a Party to obtain specific documentary evidence may generally be granted.

The Title IX Coordinator or designee has the sole discretion to grant further pauses in the process.

Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws, including the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator or designee at any point before or during the grievance/complaint process that does not fundamentally alter the process. The Title IX Coordinator or designee will not affirmatively provide disability accommodations that a Party has not explicitly requested, even where a Party may be receiving accommodations in other institutional programs and activities.

Investigation

General Rules of Investigations

An investigator designated by the Title IX Coordinator or designee will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute sexual harassment after issuing the Notice of Allegations.

The Seattle School and not the Parties has the burden of proof and the burden of gathering evidence, i.e., the responsibility of showing a violation of this Policy has occurred. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from The Seattle School and does not indicate responsibility.

The Seattle School cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong or include information.

The Seattle School will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other evidence as described below.

Inspection and Review of Evidence

Before the completion of the investigation, after the Parties have submitted all evidence they would like the investigator to consider, the Parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each Party the equal opportunity to meaningfully respond to the evidence before the conclusion of the investigation.

Evidence that will be available for inspection and review by the Parties will be any evidence directly related to the allegations raised in the Formal Complaint. It will include:

- Any relevant evidence, even if that evidence does not end up being relied upon by the institution in deciding regarding responsibility; and
- Any evidence (i.e., evidence that tends to prove or disprove the allegations) is directly related to the allegations, whether obtained from a Party or other source.

The school will provide the evidence in an electronic format. If it is impracticable to provide specific evidence in an electronic format, the institution will make the evidence available for review and inspection in person or other reasonable means. Although the school will often provide the evidence via email to the Parties' institutional email addresses, the school is not under an obligation to use any specific process or technology to provide the evidence and has the sole discretion in terms of determining the format and any restrictions or limitations on access.

The Parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The Parties and their advisors may not photograph or otherwise copy the evidence. The investigator will consider the Parties' written responses before completing the Investigative Report. The institution will provide copies of the Parties' written responses to the investigator to all Parties and their advisors, if any.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

Investigative Report

The investigator will create an Investigative Report that fairly summarizes relevant evidence and will provide that report to the Parties at least ten (10) calendar days before the hearing in an electronic format for each Party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator but only to provide a fair summary of that evidence.

Only relevant evidence will be referenced in the Investigative Report.

The investigator may redact irrelevant information from the Investigative Report when that information is contained in any documents or evidence that is otherwise relevant or may include evidence not directly relating to the allegations as appendices to the report.

Hearing

General Rules of Hearings

The Seattle School will not issue a disciplinary sanction arising from an allegation of sexual harassment by this Title IX policy and the Title IX regulations without holding a live hearing and the Respondent is determined to be responsible for the conduct alleged.

The live hearing may be conducted with all Parties physically present in the same geographic location, or, at the school's discretion, any or all Parties, Witnesses, and other participants may appear at the live hearing virtually through a commercially reasonable video platform such as Zoom. This technology will enable participants simultaneously to see and hear each other. At its discretion, The Seattle School may delay or adjourn a hearing based on technological errors not within a Party's control.

All proceedings will be recorded through audio recording or audiovisual recording. The recording will be made available to the Parties for inspection and review.

Continuances or Granting Extensions

The Seattle School may determine that multiple sessions or a continuance (i.e., a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, The Seattle School will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

Participants in the live hearing

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

- Complainant and Respondent (the Parties)
- The Parties' advisors
- The Decision-Maker
- Title IX Coordinator
- Witnesses, but only while testifying
- Any other person permitted by the Decision-Maker (including legal counsel for The Seattle School or any other person advising the Decision-Maker)

The Parties cannot waive the right to a live hearing.

Suppose a Party or witness does not submit to cross-examination, as described below. In that case, the Decision-Maker cannot rely on any prior statements made by that Party or witness in reaching a determination regarding responsibility. Still, the Decision-Maker may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that Party or witness.

The Seattle School may still proceed with the live hearing in the absence of a Party and may reach a determination of responsibility in the Party's absence, including through any evidence gathered that does not constitute a "statement" by that Party.

For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the statement's maker does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the Formal Complaint.

The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the live hearing or refusal to answer cross-examination or other questions.

The Seattle School will not threaten, coerce, intimidate or discriminate against the Party in an attempt to secure the Party's participation.

Decision Makers

Decision-Makers will not include anyone who has also served as the Title IX Coordinator, Title IX investigator, or Advisor to any Party in the same case, nor will a decision-maker at the hearing serve at the appeals level of the case.

No Decision-Maker will have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the Parties to the particular case.

Decision-Makers will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainants, and any technology to be used at the hearing. See the Training of Personnel section above.

The Parties should raise any objections regarding a decision-maker's or investigator's actual or perceived conflicts of interest or bias as soon as possible.

Advisor of choice

The Parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.

The advisor of choice may accompany the Parties to any meeting or hearing they are permitted to attend but may not speak for the Party, except for the purpose of cross-examination.

The Parties are not permitted to conduct cross-examination themselves; their advisors must conduct it. As a result, if a Party does not select an advisor, the school will select an advisor to serve in this role for the limited purpose of conducting cross-examination in a live hearing, at no fee or charge to the Party.

The advisor is not prohibited from having a conflict of interest or bias in favor of or against Complainants or Respondents generally or in favor or against the Parties to the particular case.

If a Party does not attend the live hearing, the Party's advisor may appear and conduct cross-examination on their behalf.

Witnesses

Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation.

Suppose a witness does not submit to cross-examination, as described below. In that case, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or Party who testifies at the live hearing.

Hearing Procedures

For all live hearings conducted under this Policy, the procedure will be as follows:

- Decision-Makers will open and establish rules and expectations for the hearing;
- The Parties will each be allowed to provide opening statements;
- Decision-Makers will ask questions of the Parties and witnesses;

Parties will be given the opportunity for live cross-examination after Decision-Makers conduct initial questioning. During the Parties' cross-examination, Decision-Makers will have the authority to pause cross-examination to ask follow-up questions and any time necessary to enforce reasonable decorum standards.

If a Party chooses not to cross-examine a Party or witness, the Party waives the right to cross-examination.

Live Cross-Examination Procedure

Each Party's advisor may conduct live cross-examination of the other Party or Parties and witnesses. During this live-cross examination, the advisor will ask the other Party or Parties and witnesses relevant questions and follow-up questions, including those challenging credibility.

Before any cross-examination question is answered, the decision-maker will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by the decision-maker, may be deemed irrelevant if they have been asked and answered.

Review of Recording

The recording or transcript of the hearing will be available for review by the Parties within ten calendar days unless there are any extenuating circumstances.

Standard of Proof

The Seattle School uses the **preponderance of the evidence** standard for determinations of responsibility under this policy. This means that the hearing determines whether it is more likely than not that a violation of the policy occurred.

General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of decision-makers.

Decision-makers must not draw inferences regarding a Party or witness's credibility based on the Party or witness's status as a Complainant, Respondent, or witness, nor may the decision-maker base its judgments on stereotypes about how a Party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the Party or witness's demeanor, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a Party or witness's testimony is non-linear or incomplete or if the Party or witness is displaying stress or anxiety.

Decision-makers will afford the highest weight to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred, relative to other testimony. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion. Except where barred explicitly by Title IX, a witness's testimony regarding third-party knowledge of the facts at issue will be allowed but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that The Seattle School allow Parties to call "expert witnesses" for direct and cross-examination. The Seattle School does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be crossed as required by the Final Rule, decision-makers will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross-examination and regardless of whether all Parties present experts as witnesses.

The Final Rule requires that The Seattle School allow Parties to call character witnesses to testify. The Seattle School does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be crossed as required by the Final Rule, decision-makers will be instructed to afford low weight to any non-factual character testimony of any witness.

Where a Party or witness's conduct or statements demonstrate that the Party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, decision-makers may draw an adverse inference as to that Party or witness's credibility.

Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all Parties through their institution email account or other reasonable means. The Determination will include:

- Identification of the allegations potentially constituting sexual harassment;
- 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;
- Findings of fact supporting the determination;
- For each allegation:
 - A statement of, and rationale for, a determination regarding responsibility;
 - A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the Respondent; and
 - A statement of and rationale for whether the recipient will provide remedies designed to restore or preserve equal access to the recipient's education program or activity to the Complainant; and
- The recipient's procedures and the permitted reasons for the Complainant and Respondent to appeal (described below in "Appeal").

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility should be issued by The Seattle School within ten (10) business days of the completion of the hearing.

Finality

The determination regarding responsibility becomes final either on the date that The Seattle School provides the Parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

Appeals

Each Party may appeal the dismissal of a Formal Complaint or any included allegations and a determination regarding responsibility.

To appeal, a Party must submit their written appeal within five (5) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- The procedural irregularity that affected the outcome of the matter (i.e., a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter;
- The Title IX Coordinator, an investigator, or decision-maker had a conflict of interest or bias for or against an individual Party, or for or against Complainants or Respondents in general, that affected the outcome of the matter.
- Substantially disproportionate sanctions.

The submission of an appeal stays any sanctions for the pendency of an appeal. Supportive measures remain available during the pendency of the appeal.

If a Party appeals, the school will, as soon as practicable, notify the other Party in writing of the appeal; however, the time for an appeal must be offered equally to all Parties and may not be extended for any Party solely because the other Party filed an appeal.

Appeals should be submitted in electronic form, following instructions in the written Determination Regarding Responsibility.

Appeals will be decided by an Appeals Officer, free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decision-maker in the same manner.

The outcome of any appeal will be provided in writing simultaneously to both Parties and include the rationale for the decision.

Retaliation

The Seattle School will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 USC 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 under this Title IX Grievance Process.

No person may intimidate, threaten, coerce, or discriminate against any individual to interfere with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated, or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

Record Retention

The Seattle School will maintain for a period of seven years electronic records of the following:

- Each Title IX Sexual Harassment grievance process conducted under this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript from a hearing, any disciplinary sanction imposed on the respondent, and remedies provided to the complainant designed to restore or preserve access to the school's education program or activity:
 - Any appeal and the result therefrom;
 - Any alternate resolution and the result therefrom; and
 - Records of any actions, including any supportive measures, taken in response to a report or formal complaint of Title IX Sexual Harassment. In each instance, The Seattle School will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to The Seattle School's educational and working program or activity. If The Seattle School does not provide a complainant with supportive measures, then the School will document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Per 34 C.F.R. § 106.45(b)(10) must be maintained for a period of seven years. School staff provide annual Title IX training at the beginning of each of academic year, and maintains appropriate and relevant training through professional development and professional network and associations (i.e. CUPA-HR).