

TITLE IX STUDENT CONDUCT ADJUDICATION PROCESS

Policy Statement

The University of Mississippi strives to create a respectful, safe, and non-threatening environment for its students. This policy establishes appropriate procedures for Title IX violations where the complainant and/or respondent is a student.

Title IX violations are outlined within University of Mississippi policy, ACA.EO.100.012. <https://policies.olemiss.edu/ShowDetails.jsp?istatPara=1&policyObjidPara=12352730>

The investigation and resolution of complaints involving a respondent accused of a Title IX violation are governed by this policy, while Title IX complaints by University employees are governed by Policy Number ACA.EO.100.010.

Reporting

Any students who believe that they have experienced a potential Title IX violation may submit a complaint against the respondent in writing or in person to the Title IX Coordinator.

Responsible employees **must** report any Title IX incident to the Title IX Coordinator immediately. Responsible employees include all University faculty and staff members, except those who work or volunteer in the on campus U Matter: Student Support & Advocacy unit and those with statutory privilege, including but not limited to those providing counseling or health care services through the University Counseling Center, Student Health Services, and/or Psychological Services Center.

Those who work or volunteer in the U Matter: Student Support & Advocacy unit as well as those with statutory privilege, including but not limited to those providing counseling or health care services through the University Counseling Center, Student Health Services, and/or Psychological Services Center are considered confidential employees for the purposes of this policy. Confidential employees are not required to report an incident to the Title IX Coordinator unless there is a reasonable threat to campus safety.

While maintaining an individual's confidentiality, the U Matter: Student Support & Advocacy staff must report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the complainant – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, the U Matter: Student Support & Advocacy staff person will consult with the client to ensure that no personally identifying details are shared with the Title IX Coordinator.

Any individual who is requesting confidentiality or privacy must understand that, if the individual wants to maintain confidentiality or privacy, the University may be unable to conduct an investigation into the particular incident or pursue conduct action. Even so, the UMatter: Student Support & Advocacy staff will still assist the individual in receiving other necessary protection and support, including, but not limited to, academic accommodations; “no contact” letters; changes in course schedules and changes in housing assignments; and disability, health, and/or mental health services.

Anyone who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and have the incident fully investigated.

While the UMatter: Student Support & Advocacy staff may maintain a person’s privacy within the University, it may have reporting or other obligations under state law including an obligation to respond to lawfully issued subpoenas. If the UMatter: Student Support & Advocacy staff believes that an individual(s) may pose(s) a serious and immediate threat to the University community, the University Police Department may be informed so that UPD can determine if a timely warning to the community is appropriate. Any such warning should not include any information that identifies the person reporting the information.

Students are encouraged to immediately contact the University Police Department (662-915-4911) if they have been sexually assaulted and to seek immediate medical attention. Students should seek medical attention even if they do not wish to pursue criminal charges or otherwise pursue a complaint against a respondent.

The contact information for the Title IX Coordinator, the UMatter: Student Support & Advocacy staff, and local law enforcement is included below:

Title IX Coordinator Post Office Box 1848
270 D Martindale Student Services Center
662-915-7045
Fax:662.915.1229
titleix@olemiss.edu

UMatter: Student Support & Advocacy
662-915-1059
umatter@olemiss.edu

University of Mississippi Police Department
Kinard Hall, Wing C, Floors 2 & 3
662-915-7234
upd@olemiss.edu

City of Oxford Police Department
715 Molly Barr Road, Oxford, MS 38655
662-232-2400

Lafayette County Sheriff's Department
711 Jackson Avenue East, Oxford, MS 38655
662-234-6421

Amnesty

The University of Mississippi encourages the reporting of misconduct and crimes. Sometimes, individuals are hesitant to report to university officials or participate in processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that as many people as possible participate in investigations and conduct processes. To encourage participation, the University of Mississippi promotes a policy of offering amnesty from minor policy violations related to the incident.

Interim Measures

The investigation into a Title IX complaint is only one part of the University's prompt and effective response on behalf of the complainant. The Title IX Coordinator may recommend immediate implementation of additional steps to provide for the safety of individuals or the community at large, to avoid possible retaliation, or to prevent further occurrence of any discrimination or discriminatory effects. These steps may include, but are not limited to academic accommodations; "no contact" letters; changes in course schedules and changes in housing assignments; and disability, health, and/or mental health services. Any such interim step taken by the Title IX Coordinator is not appealable, but such steps may be modified by the Title IX Coordinator at any time.

Interim Suspension or Removal

Under ordinary circumstances, a student investigated or charged with a violation of University policy shall remain free to attend class and engage in all other University functions and activities while conduct charges are pending. However, some or all of a student's privileges may be limited or suspended by the Assistant Vice Chancellor for Student Affairs and Dean of Students on an interim basis, pending the outcome of the investigation or of any University conduct process. The Assistant Vice Chancellor for Student Affairs and Dean of Students may limit or suspend student privileges when it is determined that it is necessary to do so for any of the following reasons:

- (1) To prevent a hostile environment;
- (2) To ensure the safety and well-being of a member of the University community;

- (3) To protect the property of the University or of other members of the University community; or
- (4) If there is a substantial likelihood that the charged student poses a threat of disruption or interference with the effective operation of the University.

The Assistant Vice Chancellor for Student Affairs and Dean of Students will conduct a safety and risk analysis based upon the reports and evidence pertaining to the individual. [This would include past judicial records and BIT information.] The Assistant Vice Chancellor for Student Affairs and Dean of Students would provide the student notice of the decision and the rationale for the decision. In addition, the student will have the opportunity to challenge the decision within 48 hours of the notification of the decision of interim suspension or removal. During that time the student may submit documentation to support the belief that the interim suspension or removal is not necessary. The Assistant Vice Chancellor for Student Affairs and Dean of Students will rule as soon as possible, but no later than one week of the notice of interim suspension or removal.

An interim measure or interim suspension does not replace the regular University conduct process, which shall proceed in the normal course up to and through a University conduct hearing and appeal, if applicable.

Procedures

Title IX complaints brought by a student against another student are investigated by the Title IX Coordinator. The adjudication of Title IX cases shall follow the process outlined in DSA.SC.300.001 through DSA.SC.300.015, Student Conduct Process, unless otherwise outlined below. The standard of proof for all cases involving Title IX will be based upon the University's established standard of preponderance of the evidence.

The time frames indicated below are maximums. All days are "business" days, unless otherwise noted. Especially in cases of sexual assault, the University will make every effort to move the case promptly through the process so long as such speed does not interfere with the quality of the investigation or the hearing.

In the Student Conduct process, Title IX cases will generally be adjudicated within 90 days of the date that the Title IX Coordinator is notified of the complaint, unless there are extenuating circumstances (e.g. uncooperative witnesses, break periods and periods when the University is closed). The Title IX Coordinator will comply with law enforcement requests for cooperation and such cooperation may require the Title IX Coordinator to temporarily suspend the fact-finding aspect of the investigation while law enforcement is in the process of gathering evidence. The University promptly will resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, which typically takes three to ten business days, although the delay in the University's investigation will be longer in certain instances.

Both the complainant and the respondent have the right to have an advisor present throughout the entire process, both for the investigation and, if necessary, adjudication. At any time, complainants

and respondents may choose their own advisors, or may request a list of advisors from the Title IX Coordinator or the Conduct Officer.

Procedural steps are as follows:

1. **Information Gathering:** The Title IX Coordinator will complete the investigation of a Title IX complaint generally within 60 days of receiving the complaint. The Title IX Coordinator will attempt to interview the complainant and respondent of the incident. In addition, the Title IX Coordinator will request from both parties any information or evidence that would be helpful to include in the report, including names of potential people to interview. The Title IX Coordinator will compile all evidence into a report. The report will not contain findings of fact as to whether a Title IX violation actually occurred but will contain a summary of the investigation and all documents submitted by both parties. The Title IX Coordinator will review the investigation report with the complainant and respondent. Both parties will have an opportunity to submit additional evidence relevant to the incident. Once the investigation report is finalized and complete, the complainant may make a decision as to if a formal allegation of a violation of the Title IX policy will be made. If the complainant does not wish to make an allegation, the case is closed. If the Complainant decides to make an allegation of a violation of the Title IX Policy, the person may request that the report be forwarded to the Office of Conflict Resolution and Student Conduct for a hearing or may request a resolution other than the formal hearing process. The respondent will be notified by the Title IX Coordinator that an allegation has been made by the complainant and that the conduct process will be initiated.

Informal Resolution: At any time prior to reaching a determination regarding responsibility the Title IX Coordinator and/or the Conduct Officer could offer an informal resolution process. In writing, the complainant and respondent would be notified of the allegations, the informal process, and the consequences resulting from the participation in the informal resolution process. Both parties would provide written consent that they agree to obtain an agreement through the informal resolution process. If parties reach an agreement during this process, the terms of the agreement would be put in writing and would be binding upon the parties. Violation of the written agreement will result in the student being charged with Disregard for University Authority, DSA.SC.200.010 and may result in the agreement being voided. If the parties are unable to reach an agreement, the investigation and/or conduct process will continue.

2. **Intake Meetings:** After a report, has been submitted to the Conduct Officer and both parties have been notified in writing, the University will schedule individual intake meetings with both the complainant and the respondent generally within 65 days. During the intake meeting, parties will be informed of their rights and the hearing process. In addition, both the complainant and the respondent will receive the case file, which will include the investigation report, official correspondence and other information that the hearing panel would review.

3. **An administrative agreement can be offered during the intake meeting.** Generally, with the consent of all parties involved, the Office of Conflict Resolution and Student Conduct may allow the respondent to accept responsibility for being in violation of the Title IX policy and to accept a sanction developed by the Conduct Officer. If both parties agree to the administrative agreement, both parties waive all rights to appeal, and the outcome and sanction assigned in the administrative agreement are final.

If the matter will be resolved by the University Judicial Council, the Conduct Officer will review the process with both parties in the intake meeting and, if necessary, additional meetings. Both parties will be asked to provide the names of any advisors and witnesses who will participate in the hearing. In addition, the Conduct Officer will work with the complainant, respondent, and the University Judicial Council to determine the time and location of the hearing. Once the hearing panel is determined, a list of participating judicial members will be present to both parties. Both parties have the ability to request the removal of a member if there is a conflict of interest in that person serving on the panel. The request should be in writing with the reason for the request. The Conduct Officer will make a determination as to the potential conflict. Finally, the hearing panel will receive the names of the people participating in the hearing including the complainants, respondents, witnesses, advisors, and other panel members. Any panel member may request to the Conduct Officer to be removed if there is a conflict of interest. Finally, either party may submit additional information within five days of receiving the case file. After all material is submitted and added into a final case file, both parties will have a minimum of three days to review the final case file prior to the hearing.

4. **Hearing:** A trained three-member hearing board, consisting of two faculty and/or staff members and one student, will be selected based on availability by the Office of Conflict Resolution and Student Conduct. A University employee of the three-member hearing board will preside over the hearing as chair.

The complainant and/or respondent may choose to be present throughout the entire hearing. The complainant and/or respondent may also choose to participate in the hearing through the means of technology from an off-site location or at the hearing location separated from the other party by a barrier. A party's refusal to be present or participate in the hearing will not prevent the hearing from proceeding.

At the beginning of the hearing, the chair will explain the process of the hearing. During the proceeding, complainants are responsible for supporting their complaints, and respondents are responsible for responding to the complaint.

All parties have the right to have an advisor attend the hearing; however, advisors are not permitted to speak or participate directly in the hearing and are limited to speaking only to the party they are advising or to request a recess. The parties may also request to have one additional advisor at the hearing. This request must be submitted in writing to the Office of Conflict Resolution and Student Conduct at least 3 days before the proceeding. The advisors may not hold another role in the hearing such as acting as a witness in the proceedings.

During the course of the hearing, the chair will make all procedural and evidentiary determinations, which are final. Generally, all relevant information, (information used to prove or disprove that a Title IX violation has occurred), will be considered during the proceeding. Complainant and respondent must submit all questions to the chair. All questions submitted must be relevant.

The Title IX Coordinator may be called as a witness and may present information regarding the investigation. As with any witness, the Title IX Coordinator will not testify or be asked his or her opinion but will only communicate first-hand knowledge of the investigation, including observations made by the Title IX Coordinator. In addition, the Title IX Coordinator may comment on inconsistencies found during the investigation and on the credibility of witnesses interviewed but may not draw conclusions

Both parties may give closing statements.

The decision of the hearing board and sanctions will be determined within 48 hours of the hearing completion. The complainant and respondent will be notified of the hearing board's finding concurrently. Additionally, the complainant and respondent will receive formal notification of the outcome and rationale in writing. The same notification process will be followed for all cases under appeal.

5. **Appeal:** The complainant and/or the respondent may appeal the findings and/or the sanctions of the hearing board. The process for appeal is outlined within University of Mississippi policy DSA.SC.300.010, Student Conduct Process. Both the complainant and respondent will be notified in writing of the appellate decision generally within 12 days of the Vice Chancellor for Student Affairs receiving the appeal.

The adjudication of complaints is only a part of the University's responsibilities under Title IX. While a hearing board may have a hearing and pronounce sanctions for a student who violates the Title IX policy, the University has a broader responsibility to respond to the needs of student complainants. Therefore, regardless of whether a charge is brought against a student through the student conduct process, the Title IX Coordinator will evaluate each case to determine whether the overall response of the University (including resources provided or offered to the complainant and interim steps taken to protect the complainant and others) satisfies the requirements of Title IX.

Sanctions

Title IX encompasses a wide range of prohibited conduct. As such, dependent upon the facts unique to each case, sanctions may range from a verbal reprimand to expulsion from the University. Sanctions are enforced immediately upon determination of the violation. For a non-exhaustive list of sanctions and their definitions please reference University of Mississippi policy DSA.SC.300.020, Disciplinary Sanctions.