

Student Procedures for Investigations and Resolution of Sexual Misconduct

The Title IX Coordinator will assign an investigator to reports of sexual misconduct policy violations.

The Investigator will conduct a prompt, adequate, reliable, and impartial investigation of all complaints, except in cases where a complainant has requested that the investigation not proceed and the Title IX Coordinator has agreed. During the investigation phase, both the complainant and respondent will have the opportunity to give a statement, present witnesses and provide evidence.

The Investigator and, in the case of complaints involving student respondents, the Title IX Hearing Panel will use guiding principles below to investigate and resolve each report of a violation of the policy.

1. The investigation and resolution of reports will be conducted in a manner that will protect the rights of all involved, including providing primary participants with timely and equal information and the opportunity to be heard during the investigation.
2. The investigation and resolution of reports will be conducted objectively and impartially. In the event of a conflict of interest, those involved in the investigation or resolution of the complaint will not serve in a decision-making or investigative capacity.
3. The investigation and resolution of reports will be conducted promptly and with discretion. The dissemination of information will only be done on a need-to-know basis, thus enhancing privacy for the parties.
4. The investigation and resolution of reports will be conducted by individuals who have been trained in the investigation and resolution of reports of sexual misconduct, intimate partner violence, and stalking.

Investigation and Determination of Policy Violation

Initial Review

1. The Title IX Coordinator will meet with the complainant, in person if possible, promptly upon receiving a report that the policy may have been violated. During the initial meeting, the complainant may bring an advisor of their choosing to any and all meetings pertaining to the investigation.
2. During the initial meeting, the Title IX Coordinator will assess the situation, gather preliminary information, and provide information to the complainant about available resources, options, and services.
3. The Title IX Coordinator will, during this time, discuss possible interim measures with the complainant. Interim measures are intended to provide additional safety of the parties and the campus community. Interim measures may be imposed regardless of whether the complainant wishes to pursue an investigation, or the Title IX Coordinator deems it necessary to pursue an investigation. In some cases, the Title IX Coordinator, on behalf of the College, will implement interim measures without request from the parties. Interim measures may consist of counseling,

housing assistance, academic assistance, no contact orders, or other measures deemed appropriate. Determinations about appropriate interim measures will be made on a case-by-case basis by the Title IX Coordinator.

4. The Title IX Coordinator will also discuss available options with the complainant, including the process for investigation by the Investigator, making a police report, pursuing a civil protective order through the court system, and informal mediation processes. The Title IX Coordinator will also provide information on privacy and limits of privacy of the investigative materials and conversations.
5. The Title IX Coordinator may determine that a report would not be a violation of the Sexual Misconduct policy. If so, the Title IX Coordinator will refer the matter to the Office of Student Life, Office of Human Resources, or any other appropriate Earlham department.
6. During the initial meeting, or any time during the course of the investigation, the complainant may request that an investigation not be pursued. If the complainant makes such request, the Title IX Coordinator will review the severity of the report and assess the possible safety risks to the campus community, prior reports involving the same respondent, and the specific request by the complainant.
7. The Title IX Coordinator will make the final decision about whether or not to proceed with an investigation. If determination is made not to proceed with an investigation, the Title IX Coordinator will document the reasons for the decision within the case file. The initial report will be maintained and will be included as part of the Annual Campus Security Report statistics with identifiable information left out.
8. In the event that the Complainant does not respond to the Title IX Coordinator, or refuses to meet with the Title IX Coordinator, the Title IX Coordinator will use the evaluation criteria listed in number six (6) listed above to make a determination about whether or not an investigation will go forward. In situations where the respondent has other serious conduct violations pending and the complainant hasn't come forward, the Title IX Coordinator may defer to the Division of Student Life without an investigation.

Investigations.

1. After the initial report and possible meeting with the complainant, if appropriate, the Title IX Coordinator will initiate an investigation. The Title IX Coordinator will notify the complainant(s) and the respondent(s) of the substance of the complaint in writing through the parties Earlham email accounts.
2. The Title IX Coordinator will request to meet with the Respondent(s) in writing.
3. During the meeting with the Respondent, the Title IX Coordinator will discuss possible interim measures with the respondent. Interim measures are intended to provide additional safety of the parties and the campus community. Interim measures may be imposed regardless of whether the complainant wishes to pursue an investigation, or the Title IX Coordinator deems it necessary to pursue an investigation. In some cases, the Title IX Coordinator, on behalf of the College, will implement interim measures without request from the parties. Interim measures may consist of counseling, housing assistance, academic assistance, no contact orders, or other

measures deemed appropriate. Determinations about appropriate interim measures will be made on a case-by-case basis by the Title IX Coordinator.

4. The Title IX Coordinator will also discuss with the respondent the process for investigation by the Investigator, making a police report, pursuing a civil protective order through the court system, and informal mediation processes. The Title IX Coordinator will also provide information on privacy and limits of privacy of the investigative materials and conversations.
5. The Title IX Coordinator will then assign a Title IX Investigator to the case. Both parties will be notified in writing who the Title IX investigator for the case will be. Both parties will have five (5) business days to inform the Title IX Coordinator in writing of any potential conflict of interest with the investigator selected.
6. In the event of their being a conflict of interest with the investigator, the Title IX Coordinator will assign another investigator to the case.
7. Investigators will likewise be provided the names of the parties to the case so that they can make a determination if there is a conflict of interest on their part. Process number six (6) from above will be repeated in the event of a conflict of interest for the investigator.
8. The investigator will conduct a prompt, complete, and impartial investigation of the complaint which will include meeting individually with the complainant and the respondent, providing opportunity for the complainant and the respondent to provide their accounts, names and contact information of witnesses, and provide any other information that they see relevant to the report.
9. During the interviews with the investigator, the complainant and the respondent may be accompanied by a support person of their choosing. The role of the support person is one that does not have a speaking role. This means your support person will not be allowed to participate in the interview by answering any questions, asking any questions, making any comments, or discussing the subject of the complaint. In the event that a support person does not comply with these terms, the investigator has the discretion to end the interview and reschedule the interview for another time with a new support person.
10. It is the responsibility of the Title IX investigator to gather additional evidence as may be necessary and available to further the investigation.
11. During the investigation, both the complainant and the respondent will have equal rights to: (a) protection under the law; (b) information about College policy and procedures related to the investigation; (c) updates regarding the status the investigation; (d) ability to name witnesses and evidence relevant to the complaint; and (e) ability to meet with the investigator any time during the investigation up to completion of the investigation and review of the preliminary investigative report.
12. Each party will have the opportunity to prepare questions to be asked of the other party. The investigator will facilitate this process and include the responses within the investigative report.
13. The investigator will provide both the complainant and the respondent an opportunity to review the preliminary report of investigation prior to the scheduling of the hearing.

14. The complainant and respondent will have five (5) business days to respond to the preliminary report in writing back to the investigator.
15. After the five (5) business days has passed, the investigator will prepare a final report of investigation that summarizes the information gathered and identifies the areas of agreement and disagreement between the parties and any supporting information that has been provided by witnesses or other evidence collected. The investigator will also note the modifications to the report that were requested by the parties by including the written response as an addendum to the investigative report.
16. The investigator will then submit the final report to the Title IX Coordinator for a final review. The Title IX Coordinator has the discretion to ask the investigator to conduct additional interviews if necessary.
17. Upon review of the final investigative report, the Title IX Coordinator will select four (4) members from the Title IX panel to hear the case.
18. Both parties will be notified in writing who the hearing panel members will be for the case. Both parties will have five (5) business days to inform the Title IX Coordinator in writing of any potential conflict of interest with the panel members selected.
19. Parties will have only one opportunity to remove one of the potential panel members.
20. In the event of their being a conflict of interest with any of the panel members, the Title IX Coordinator will assign another panel member to the case.
21. Panel members will likewise be provided the names of the parties to the case so that they can make a determination if there is a conflict of interest on their part. Process number eighteen (18) from above will be repeated in the event of a conflict of interest for any panel member.
22. The Title IX Coordinator will notify both parties in writing through their Earlham email account who the final Title IX hearing panel will be.

Hearing Proceedings

Hearing proceedings will consist of a Hearing Officer, the selected Title IX panel, the complainant and respondent if so, choose with one support person each if applicable, the Title IX investigator and the Title IX Coordinator. Witnesses will not be permitted to attend hearings.

1. Upon assembly of the panel, the investigator will present the final report of the investigation to the panel members. The panel will be empowered to review the investigative report and ask the investigator any questions pertaining to the investigation that they feel is relevant to assisting them in making a determination of policy violation.
2. The complainant and the respondent may choose to participate in the Title IX hearing with a support person. Choosing not to participate in a hearing process does not automatically equate to policy violation or not.
3. The Hearing Officer will open the hearing by providing the formalities of the hearing and participant rights.
4. A digital recording will be made of the hearing and attached to the Title IX case file. Deliberations of the panel will not be recorded.

5. The Hearing Officer convenes and conducts the hearing. The Hearing Officer has the authority to exclude/remove disruptive persons from the proceedings and is present as the facilitator of deliberations.
6. After introductions of the persons present and procedural matters, the hearing begins with the hearing Officer reading the allegations statement. If any party chooses not to attend the hearing, the hearing process will proceed, and decisions will be reached on the basis of the available evidence.
7. The Title IX investigator will then summarize details from the interview of both parties.
8. The complainant and then the respondents will then be given the opportunity to make an opening statement to the panel members and address any accounts that the investigator made during their summary. **This is not the time to go over details of the incident with the panel as this will already have been addressed within the final investigative report.**
9. Members of the panel will be given an opportunity to question the parties.
10. Allegations of past Title IX misconduct or other social violations are not admissible during this hearing. Previous findings of past Title IX misconduct or other social violations are not admissible or permitted during the hearing and may only be introduced and considered in deliberations if the panel has made a determination that it is more likely than not that the sexual misconduct policy has been violated. This information may be used in making a sanction decision.
11. The parties will have an opportunity to make a final statement. Following final statements, the parties, their support persons, the investigator, and the Title IX Coordinator will be dismissed for the panel to deliberate.
12. During deliberations, the panel will consider first, whether the responding party has more likely than not violated the sexual misconduct policy.
13. If the responding party has been found in violation of the sexual misconduct policy, the panel then engages in deliberation to determine the appropriate sanctions.
14. Hearing officer will be present through these deliberations to serve as a resource to the panel and explain what sanction(s) have been applied to similar offenses in the past to encourage comparable sanctions.
15. A member of the panel will write a summary detailing the decision of the panel and the rationale behind the decision that will be submitted to the Title IX Coordinator.
16. The Title IX Coordinator will provide written notification to the parties on the panel decision and rationale in addition to appeal process within five (5) business days of the hearing.
17. Parties will have ten (10) calendar days to appeal the decision of the panel to the Vice President of Student Life or designee.

Appeal procedures

1. Within ten (10) calendar days of being notified of the Title IX panel's decision, both parties can appeal the decision in writing to the Vice President of Student Life or designee.

2. The only basis for an appeal is lack of procedural due process, which is defined as a notice of the investigation and the right to be heard, or substantial new evidence made available that was not available during the time of the investigation.
3. To initiate the appeal process, the complainant or respondent must complete an appeal form that will be provided to them by the Title IX Coordinator or located off of the Title IX webpage.
4. The submitted appeal form will be sent to the Title IX Coordinator for review and the gathering of the case file for submission to the Vice President for Student Life or his/her designee for review.
5. The Title IX Coordinator will notify in writing the other party that an appeal was submitted.
6. The Vice President for Student Life or designee will render a final decision in writing to the Title IX Coordinator.
7. The Title IX Coordinator will send the parties the appeal decision and close the file.
8. The Vice President's or designee's decision is final.

Informal Resolution Process

In the event that both parties agree, an informal resolution process of mediation will pursue. Mediation is a process in which a third person, in this case, the Title IX Coordinator, will assist the parties in resolving their dispute by reaching mutually acceptable solutions to the dispute. The mediation will be structured in a way that fosters a continued relationship to the parties involved. In order to resolve the dispute, both parties must agree to the process and solutions. If one party does not agree to resolve the report informally, then a formal investigation will proceed.

It is important to understand that the purpose of mediation is to be nonadversarial, private, and faster than a formal investigative process.

1. In the event that the complainant wants to initiate an informal resolution process; the Title IX Coordinator/mediator will meet with the responding party and ask if they are interested in pursuing an informal resolution process to the initial report made.
2. If the responding party agrees to resolve the report informally, the Title IX Coordinator will send both parties an agreement to mediate the report for both parties to sign.
3. In the event that there is a conflict of interest between any of the parties and the Title IX Coordinator, the Title IX Coordinator will assign another certified mediator to the case.
4. The Title IX Coordinator/Mediator will gather the facts from both parties regarding the report and gather the overall views of the dispute from both parties, thus allowing the parties to define the problem.
5. The Title IX Coordinator/Mediator will schedule a date and time that works best for the parties to conduct the actual mediation. In the event that the parties request to not be in the same room, the Title IX Coordinator/Mediator will have the authority to continue the mediation through a caucus or to terminate the mediation and move forward with a formal investigation process.
6. During the mediation, the Title IX Coordinator/Mediator will work with the parties in generating a mutually agreed upon solution to the dispute.

7. Once a mutual agreement has been reached between the parties, The Title IX Coordinator/Mediator will draft a memorandum of understanding (MOU) detailing the agreements and provide a copy to each party.
8. The Title IX Coordinator/Mediator will copy of the MOU in the original case file and case will close.