

TITLE IX AND SEXUAL MISCONDUCT POLICY AND PROCEDURES

INTRODUCTION

George Fox University is committed to providing a Christ-centered community that fosters a safe living, learning, and work setting for students, employees, and visitors. A core value of this institution is to maintain a respectful environment for all individuals that is free of the following:

- Sexual Harassment
- Sexual Assault
- Domestic Violence
- Dating Violence
- Stalking
- Sexual Exploitation

This policy applies to cases that fall under the jurisdiction of the Department of Education's Title IX Regulations, published May 19, 2020, as well as those cases that fall under the jurisdiction of Oregon HB 3415. The University will have the discretion to refer complaints of misconduct not covered by this Policy to any other appropriate office for handling or resolve other complaints of misconduct under any other applicable University policy or code. This is not to suggest that any case is more or less important, but instead a reflection of federal and state regulations that apply only to a specifically-identified set of cases.

The University does not discriminate in its admissions practices except as permitted by law, in its employment practices, or in its educational programs or activities on the basis of sex. As a recipient of federal financial assistance for education activities, the University is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex. George Fox University, in accordance with our evangelical Quaker and Christian ethos, reserves its rights under law to maintain policy requirements consistent with its identity as a religious institution. The University is entitled to statutory and constitutional protections for its religious liberty that exempt it from certain provisions of civil rights laws, including religious exemption to parts of the Title IX regulations. The University reserves its rights under the law to make certain decisions in accordance with its religious identity and its mission as a religious institution.

If you are unclear about any of the policies and procedures and would like to get more information, you may speak on a non-confidential basis with the Title IX Coordinator.

Throughout this policy, various University officials are assigned responsibility for performing specific functions. Named officials are authorized to delegate responsibility to other appropriate University officials and non-university consultants except where such delegation contravenes University policy. Additionally, named officials and their designees may consult with appropriate University officials, the Office of General Counsel, non-university consultants and subject matter experts in making a determination if the incident meets the definitions and jurisdictional elements outlined in the Title IX federal policy or the University Sexual Misconduct policy.

Notice of Non-Discrimination

Sexual misconduct against members of the campus community, guests, and visitors is not tolerated. George Fox University commits to providing an educational environment free of all forms of sex discrimination, including but not limited to unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct or communications constituting sexual harassment, as defined in this policy and as otherwise prohibited by state and federal statutes. Sexual harassment, including acts of sexual ass

TERMS AND DEFINITIONS

If there is a conflict between any definition in this procedure and the definition- assigned terms in other University policies, the specific definitions in this policy control.

Advisor of Choice

Both the Complainant and Respondent have the right to an *advisor of choice* present during any administrative meeting related to the processes outlined in this policy. This person may be anyone, regardless of their relationship to the Complainant/Respondent and regardless of their affiliation to the University. The advisor of choice may not interject, speak or act on behalf of a party, take any action that impedes or disrupts, nor interrupt the meetings. If the formal complaint falls under the Title IX process, the advisor of choice has the responsibility to ask cross-examination questions during the hearing portion of the process. If a Complainant or Respondent does not have an advisor of choice, the University will assign a Hearing Advisor to them (see definition of Hearing Advisor).

Complainant

An individual (enrolled student, University employee, applicant or alum) who files a complaint to report a violation of this policy. It also includes any person who is reported to have experienced a violation of this policy in cases where some other person has

HB 3415

Effective January 1, 2020, requires institutions of higher education in the State of Oregon to both adopt written policies and require certain individuals to participate in annual training on sexual harassment, sexual assault, domestic violence, dating violence and stalking that occur both on and off campus.

Hearing Advisor

Each party is entitled to one Hearing Advisor at the hearing. The Hearing Advisor may be the same person who serves as the Advisor of Choice during the investigation process. The role of the Hearing Advisor is to ask questions of the other Party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party will be permitted to ask questions of the other Party, or of a witness. An advisor of the University's choosing will be provided for any party who does not have an advisor for the purpose of asking questions of the other party and witnesses at the hearing.

Hearing Officer

The hearing officer is responsible for conducting the hearing and issuing a finding based upon a preponderance of the evidence. In a Title IX hearing, the hearing officer is responsible for determining whether a cross-examination question is relevant and permissible to the hearing. The hearing officer also writes the notice of determination and coordinates with the Title IX Coordinator on the timing of sending the notices simultaneously to both parties. In a hearing related to allegations of prohibited conduct under H3415, a closed administrative hearing will be held to resolve the case. A team of two hearing officers will meet privately to review the final investigation report and make a determination of responsibility.

Incapacitation

A state where an individual cannot make an informed and rational decision to engage in sexual activity because of a lack of conscious understanding of the fact, nature, or extent of the act (e.g., to understand the who, what, when, where, why, or how of the sexual interaction) or is physically helpless. An individual asleep or unconscious is considered to be incapacitated and unable to consent to sexual activity. An individual will also be considered incapacitated if the person cannot understand the nature of the activity or communicate due to a mental or physical condition. Incapacitation may result from the use of alcohol, drugs, or other medication. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

Support Person.

Either party may bring a support person with them to any meeting, even prior to filing a formal complaint. This support person can also be anyone, regardless of their affiliation to the University or their relationship to the party. The support person must

Bystander Intervention

violence laws of the jurisdiction.

Examples of domestic violence include but are not limited to:

Causing or attempting to cause physical or mental harm to a family or household member

Placing a family or household member in fear of physical or mental harm

Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress

Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested

Retaliation

Federal law and institutional policy prohibits retaliation. It is defined as any adverse or negative action against a person participating in any reporting, investigation or proceeding that is perceived as: intimidating, threatening, coercing, hostile, harassing, retribution, or violence that occurred in connection to the making and follow-up of the report. This also includes actions against an individual who has: (1) complained about alleged discrimination, harassment or retaliation, (2) participated as a party or witness in an investigation relating to such allegations, or (3) participated as a party or witness in a court proceeding or administrative investigation relating to such allegations.

Federal civil rights laws, including Title IX, make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws. Intimidation means to make fearful or to induce fear for the purpose of deterring someone from action. Generally, proof of actual fear is not required in order to establish intimidation. It may be inferred from conduct, words, or circumstances reasonably calculated to produce fear. Any person violating this policy may be subject to appropriate community accountability, up to and including termination if they are an employee, and suspension or dismissal if they are an undergraduate or graduate/DPS student.

Sexual Assault

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

Unwelcome or unwanted attention can also be cause for concern. This may include, but is not limited to, repetitive communication and/or behaviors that can make an individual feel uncomfortable to some degree. Though these types of behaviors may not meet the definition of stalking, they are still cause for concern and will be handled as such.

REPORTING PROCESS

The University encourages individuals who believe they are experiencing sexual harassment to report the harassment. Those who are aware or reasonably believe that another person is being sexually harassed, may also make a report through this process, or seek support from confidential resources. Please note that a report is not the same as a Formal Complaint, and therefore a report alone does not initiate the resolution process.

Reports of potential violations of this policy will be kept private to the extent possible for the University to respond to the report, but reports made to those listed below are not confidential.

Reports of potential violations of this Policy may be made to the Title IX Coordinator, a Deputy Title IX Coordinator, and via the online reporting form found on the Title IX Website..

In addition to, or instead of, filling out the online reporting form, individuals may choose to speak with any non-confidential University employee to initiate a report of sexual misconduct, or may submit a written statement by email or regular mail (see information below on filing a Formal Complaint).

Upon being notified of a report the Title IX Coordinator or designee will reach out to the individual who experienced the alleged misconduct to schedule an Intake Interview and will also provide the individual information regarding resources, rights, Supportive Measures and reporting options, and will explain that Supportive Measures are available without filing a Formal Complaint. The Title IX Coordinator will also explain

the process for filing a Formal Complaint, which is needed in order to start either the investigation or Informal Resolution processes.

Individuals may also notify the University if they believe someone else may have experienced conduct that would be a violation of this Policy.

Timely Warning.

If a report of sexual misconduct presents a serious and continuing threat to the community, George Fox University may issue a campus-wide timely warning to protect the health and safety of community members. The timely warning will not include any identifying information about the person who experienced the unwanted behavior as defined by the Policy.

Timeline for Reporting.

The University does not limit the timeframe for reporting an incident regardless of when the incident occurred. However, individuals are encouraged to report as soon as

Any individual carrying out this Policy will be free from any actual conflict of interest or demonstrated bias that would impact the handling of this matter. Should the Title IX Coordinator have a conflict of interest, the Title IX Coordinator is to immediately notify the Associate Vice President for Inclusive Excellence who will designate the role of Acting Title IX Coordinator for purposes of carrying out the handling and finalization of the matter at issue. Should any investigator, Hearing Officer or Appealsor App

For those who wish to proceed with any resolution process, the Title IX Coordinator will assess the facts as presented to determine whether the reported behavior would, if substantiated, meet the definition of prohibited conduct according to the Policy. If the report does not meet the jurisdictional requirements under the Policy, then the Title IX Coordinator may not initiate a resolution process.

Emergency Removal and Administrative Leave

The university retains the authority to remove a Respondent from the university's program or activity on an emergency basis, where the university (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of Prohibited Conduct justifies a removal.

When the Title IX Coordinator suspects that an Emergency Removal may be appropriate or necessary, they will consult with appropriate University officials who are trained to conduct an individualized safety and risk analysis to assess the potential threat. If those officials, in consultation with the Title IX Coordinator, determine that an immediate threat to the physical health or safety of any student, employee, or other individual arising from the allegations of Prohibited Conduct justifies a removal, the Title IX Coordinator will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal. The University will designate an individual, not otherwise involved in the case, to consider the challenge to the removal and determine if the emergency removal was reasonable.

If necessary, during a pending process under this Policy, the University retains the authority to place an employee on administrative leave. Administrative Leave can be put in place with or without pay as appropriate, consistent with University procedures, policies, and regulations, and/or any applicable collective bargaining agreement. An employee can be placed on Administrative Leave without conducting an individualized safety risk analysis and does not require following the Emergency Removal process outlined above. Any decision to place an employee on administrative leave must be made in consultation with the Title IX Coordinator, the appropriate human resources representative, and the employee's supervisor.

RESOLUTION METHODS

After a Formal Complaint is filed, the University will issue a Notice to the Complainant and the Respondent which will include information on the below methods of resolution:

1. informal resolution;
2. investigation and hearing; or
3. dismissal.

1. Informal Resolution

The Title IX Coordinator may offer to the parties the option of Informal Resolution at any time during the Resolution Process. Either party may also request, in writing, to proceed with an Informal Resolution. Participation in the Informal Resolution process is voluntary for both Complainant and Respondent. Both parties and the Title IX Coordinator must agree to the use of Informal Resolution to resolve the complaint. If an Informal Resolution option is preferred, the Title IX Coordinator will assess whether the complaint is suitable for Informal Resolution and will then take steps to determine if the other party is also willing to engage in Informal Resolution. Both parties must agree, in writing, to an Informal Resolution.

Information regarding Supportive Measures, which are available equally to the Respondent and to the Complainant.

If either party does not voluntarily agree in writing to pursue an Informal Resolution, or if the Complainant, Respondent, or Title IX Coordinator, at any time, determines that Informal Resolution is no longer appropriate, the Title IX Coordinator will promptly inform the Complainant and Respondent in writing that the complaint will proceed through the Investigation and Hearing Process.

For employees (i.e., an employee allegation against another employee), the terms of Informal Resolution may lead to non-disciplinary outcomes such as additional training for a unit or area, agreements for how to continue working together, ongoing no-contact

Within a reasonable period of time from the filing of a Formal Complaint and prior to the start of an investigation, the Respondent and Complainant will be provided, in writing, with a Notice of Investigation. Such notice will include:

- The specific allegation and the specific conduct that is alleged to have occurred;
 - The identities of the Complainant and Respondent;
 - The date and location (if known) of the conduct that is alleged to have occurred;
 - A copy of this Policy, which contains the process that will be followed, including an explanation that each party will have the right to inspect and review all evidence prior to the completion of the investigation;
 - A statement indicating that the decision to accept a complaint does not presume that the conduct at issue has occurred, and that the Respondent is presumed not responsible, unless and until, at the conclusion of the process below, there is a determination of responsibility;
 - An explanation that each party may be accompanied by an advisor of their choice, who may be a parent, friend, attorney;
 - The date and time of the initial interview with the investigator, with a minimum of five (5) days notice;
 - Information regarding amnesty granted during this process;
 - The name and contact information for the assigned investigator;
 - Information regarding Supportive Measures.
- Should additional allegations be brought forward, a revised Notice of Investigation will be provided to both parties, in writing.

If an investigation is initiated, the university will appoint a trained Investigator(s). The Investigator(s) may be an employee or third-party hired by George Fox University. Any Investigator(s) chosen to conduct an Investigation must be impartial and free from any conflict of interest.

Challenging for Conflict of Interest or Bias

After a Notice of Investigation is issued to Complainant and Respondent, each party may object to the Title IX Coordinator or designated investigator on the grounds of a demonstrated bias or actual conflict of interest. Both parties will have three (3) days from the date of the Notice of Investigation to object to the selection of the investigator or the Title IX Coordinator on those grounds. Objections to the Title IX Coordinator will be made, in writing, to the Associate Vice President for Inclusive Excellence. Objections to the appointment of the investigator will be made, in writing, to the Title IX

allegations within the Formal Complaint, or to proceed to adjudication. Dismissal is appropriate only when required (as described in the Dismissal Section below). A dismissal decision under this provision may not be based on an assessment of the credibility of a Party or Witness and may be appealed within five (5) days , using one of the permissible grounds for appeal.

The Hearing phase of the Formal Process begins when the Title IX Coordinator or designee sends the Notice of Administrative Hearing and concludes when the Hearing Officer issues a written Final Determination. Specific deadlines and dates calculated according to these procedures will be outlined in communications from the University.

Post-Investigation Resolution Options

After receiving the Final Investigation Report, the Parties will receive a Notice of Resolution Options from the Title IX Coordinator.

Informal Resolution

Within five (5) days of the Notice of Resolution Options, the parties may choose to proceed with an Informal Resolution, as described in this Policy. Both parties must voluntarily agree in writing to the Informal Resolution. If an agreement is reached through the Informal Resolution process, the Formal Complaint will be resolved and the case will be closed. An Informal Resolution agreement is final and not subject to appeal.

Unless both parties agree to Informal Resolution, the Formal Complaint will proceed to an Administrative Hearing.

Administrative Hearing

If the alleged violation(s) fall within the jurisdiction of Title IX, the case will be resolved with a live administrative hearing. If the alleged violation(s) fall within the jurisdiction of HB3415 or university policy, the case will be resolved with a closed administrative hearing.

Each party will be provided with a Notice of Hearing, which will include information

reviewed by the Hearing Officer(s) to ensure relevance. The hearing will be scheduled no less than ten (10) days from the date of the Notice of Hearing.

Within three (3) days of receipt of the Notice of Hearing, either party may object to a Hearing Officer(s) on the basis of a demonstrated bias or actual conflict of interest. Any objection is to be in writing and sent to the Title IX Coordinator. Should the Title IX Coordinator determine that there is an actual bias or conflict of interest, the Title IX Coordinator will remove the Hearing Officer(s) and appoint another.

Live Administrative Hearing Procedures and Hearing, Final Determination

Hearing Advisor

Each party is entitled to one Advisor at the hearing which will be referred to as the Hearing Advisor. The role of the Hearing Advisor is to ask questions of the other party and of witnesses, but not to advocate for, or otherwise speak on behalf of, the advisee during the hearing. No party will be permitted to ask questions of the other party, or of a witness. A Hearing Advisor will be provided for any party who does not have a Hearing Advisor. .

Live Administrative Hearing

Pre-Hearing Conference: There will be a pre-hearing meeting with each party at which time, should the Complainant or Respondent not have an Advisor, one shall be assigned for the purpose of cross-examination at the Hearing. At the meeting, each party may submit to the Decision-maker a preliminary list of witnesses, and questions they wish to pose to the other party, or to a witness.

General Structure of the Hearing: Hearings may be conducted in person or via videoconference. If by videoconference, the participants will receive instructions on how to participate in the hearing. No Complainant or Respondent or witness will be compelled to participate in the hearing. However, the Title IX Coordinator may choose to continue with the hearing in the absence of the Complainant, Respondent or any witness. The general structure of the Hearing will be as follows:

The Hearing Officer provides information about the process and addresses any issues that need to be resolved prior to the Hearing (such as evidentiary questions or requests for exceptions to the rules that may be asked by the parties).

The Hearing Officer will ask questions of the Complainant.

The Respondent's Advisor may ask relevant follow-up questions of the Complainant.

Evidence at the Hearing: The Hearing Officer will determine which evidence is admitted, including information from witnesses and documentary evidence. Evidence is relevant if it has any tendency to make a fact that is of consequence more or less probable than it would be without the evidence.

Non-Title IX Allegations: Where there are non-Title IX allegations addressed at the same Hearing, the Hearing Officer may consider all information they deem relevant for the non-Title IX allegations, however, in all other regards, when Title IX and non-Title IX allegations are addressed together at a Hearing, the procedures applicable to Title IX allegations will be used for all allegations.

Further Investigation: If the Hearing Officer determines that unresolved issues exist that would be clarified by the presentation of additional information, they may, at their discretion, suspend the Administrative Hearing in order to obtain such information. The Hearing Officer may ask the Investigator to conduct further investigation. The Hearing Officer will reconvene the Hearing in a timely manner.

Non-Participation: The Hearing Officer will not draw any inference regarding responsibility based solely on a Party's non-appearance at the hearing or refusal to answer questions.

Hearing Outcome

Following the hearing, the Hearing Officer will then prepare the Hearing Outcome. To the extent credibility determination needs to be made, it will not be based on a person's status as Complainant, Respondent, or witness.

The Hearing Officer will then provide each party with the Hearing Outcome, including the determination of the appropriate sanction if applicable, will inform the Complainant of any appropriate remedies, and will inform both parties of the procedure for appeals.

Closed Administrative Hearing

If the alleged violation(s) fall within the jurisdiction of prohibited conduct under HB3415 or other university policy, a closed administrative hearing will be held to resolve the case. During the closed administrative hearing, a team of two hearing officers will meet to review the final investigation report and evidence file and make a determination of responsibility in the case using the preponderance of evidence standard. If a

responsible finding is made in the case, the hearing officers will also determine any appropriate sanctions.

A case that is dismissed under Title IX but falls within the jurisdiction of prohibited conduct under HB3415 will be resolved using this Policy.

Sanctions and Remedies

Upon conclusion of the hearing process, when there is a finding of responsibility, the Complainant will be offered such remedies designed to restore or preserve equal access to the institution's education program or activity. The Title IX Coordinator is re

Compliance with all assigned sanctions within the time allocated is mandatory. Failure to complete or comply with any assigned sanction, or failure to meet an assigned deadline (if applicable), may result in further disciplinary action, and/or the placement of a hold on a student's University account. If a student withdraws or takes a leave prior to the completion of their sanctions, they must complete all assigned sanctions before they will be permitted to re-enroll. One or more of the following sanctions may be imposed if a student is found responsible for a violation of this Policy.

Educational Intervention

A student may be required to meet with another individual or group. The number of meetings will be determined by the party to which the student has been referred. Should a student need an outside assessment, the student is solely responsible to pay for all required assessments and any resulting recommended treatment.

Conduct Probation

Conduct Probation may be assigned for repeated misconduct or for more serious misconduct. Students who receive a sanction of conduct probation and have subsequent policy violations may face more severe sanctions, up to and including suspension or dismissal from the University. Periodic probationary meetings may also be required.

Suspension from Housing

A relocation or temporary removal from University housing, given when serious and/or repeated misconduct in the community warrants separation of the student from that community. Suspension from University housing prohibits the student from residing in or visiting specified residence halls and adjacent grounds for a stated period of time.

an actual bias or conflict of interest, the Title IX Coordinator will remove the Appeals Officer and appoint another.

While an appeal process is pending, a student or employee found responsible for violating this Policy, or any other University Policy, must comply with the sanctions previously imposed and deemed necessary. A party may request a stay of the sanction during the appeal process, and should direct that request to the Title IX Coordinator.

If either party submits an appeal request, that appeal request will be shared with the other party who will then have five (5) days to submit a response if they so choose. Appeal requests and responses to appeal requests will be shared with the Complainant and the Respondent.

