



POLICY TITLE:

Title IX Sexual Harassment

APPLIES TO:

Regents

Faculty

Staff

Students

Applicants for Admission and Employment

Contractors, Vendors, Volunteers, Visitors, and Third Parties

Registered Student Organizations

ADMINISTRATIVE AUTHORITY:

Title IX Office

APPROVED BY:

Kentucky State University Board of Regents

EFFECTIVE DATE:

August 8, 2025

NEXT REVIEW DATE:

August 8, 2028

POLICY STATEMENT:

Kentucky State University (KSU) is unequivocally committed to maintaining an educational and working environment that is free from all forms of discrimination and harassment on the basis of sex. This commitment is mandated by Title IX of the Education Amendments of 1972 ("Title IX") and its implementing regulations at 34 C.F.R. Part 106.

This policy expressly prohibits all forms of sexual harassment as defined under Title IX. This includes quid pro quo sexual harassment, hostile environment sexual harassment, sexual assault, dating violence, domestic violence, and stalking, as these terms are specifically defined within this policy. This policy applies to conduct

occurring within any KSU education program or activity within the United States. The term “education program or activity” includes all of KSU’s operations. This encompasses locations, events, or circumstances over which KSU exercises substantial control over both the respondent (the individual alleged to have committed the prohibited conduct) and the context in which the sexual harassment occurred. This also explicitly includes any building owned or controlled by a student organization that is officially recognized by KSU. This provision has direct implications for entities such as fraternities and sororities, and other student organizations that maintain dedicated physical spaces.

This policy also strictly prohibits retaliation against any individual for making a good-faith report of sexual harassment, for participating or refusing to participate in any investigation or proceeding conducted under this policy, or for otherwise exercising their rights under Title IX.

KSU will respond promptly and equitably to all reports of sexual harassment and retaliation. KSU’s response will not be deliberately indifferent and will include taking appropriate steps to stop the harassment or retaliation, prevent its recurrence, and remedy its effects on the complainant and the KSU community. The “not deliberately indifferent” standard, originating from Supreme Court precedent and reinforced in the 2020 Title IX regulations, means that KSU’s response must not be “clearly unreasonable in light of the known circumstances.” This standard mandates that all KSU actions, from the initial contact with the complainant through the implementation of supportive measures and the execution of formal grievance processes, must be demonstrably reasonable and responsive. Robust and meticulous record-keeping of all interactions, decisions, and actions taken is therefore essential to demonstrate compliance with this standard.

This policy and the grievance procedures detailed herein are designed to provide for the prompt and equitable resolution of complaints alleging sexual harassment that falls within the scope of Title IX.

It is important to note that KSU also prohibits other forms of sexual misconduct that may not meet the specific jurisdictional or definitional requirements of Title IX sexual harassment as outlined in this policy. Such conduct that falls outside the purview of Title IX will be addressed under other applicable KSU policies. The distinction between “Title IX sexual harassment” (which is subject to the specific definitions and grievance procedures of this policy) and “other forms of sexual misconduct” is critical for jurisdictional clarity. The 2020 Title IX regulations narrowed the scope of conduct that educational institutions must address under their formal Title IX grievance procedures, particularly concerning the location of the conduct and the severity required to constitute a hostile environment under Title IX. Consequently, KSU must clearly communicate to its community which behaviors trigger this specific Title IX policy and its detailed grievance process, versus those behaviors that will be addressed through other KSU disciplinary mechanisms. This clarity is vital to avoid confusion, ensure compliance with federal law, and manage the expectations of all parties involved. Training materials for students and employees should explicitly address this distinction.

DEFINITIONS:

The following definitions apply to terms used within this policy. These definitions are intended to align with Title IX regulations and relevant law. The precise application of these definitions is fundamental to the fair and consistent administration of this policy. Personnel involved in implementing this policy, including the Title IX coordinator, investigators, and decision-makers, must receive thorough and ongoing training on these definitions

to ensure accurate and compliant application, as misapplication could lead to procedural errors and legal challenges.

Actual Knowledge

Notice of sexual harassment or allegations of sexual harassment to KSU's Title IX Coordinator or any KSU official who has authority to institute corrective measures on behalf of KSU. The receipt of actual knowledge triggers KSU's obligation to respond under Title IX.

Advisor

An individual selected by a complainant or respondent to accompany them to any meeting or proceeding related to the formal grievance process, including any live hearing. The advisor may be, but is not required to be, an attorney. The 2020 Title IX regulations place significant emphasis on the role of the advisor, particularly during live hearings where advisors are responsible for conducting cross-examination on behalf of their advisee.

Complainant

An individual who is alleged to be the victim of conduct that could constitute sexual harassment as defined in this policy. At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in an education program or activity of KSU. This definition clarifies who has standing to initiate the formal grievance process under this policy.

Coercion

Unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure used to obtain consent. When a person makes clear a decision not to participate in a particular sexual activity, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can be coercive.

Confidential Resources

KSU and community resources that can provide support and guidance without an obligation to report allegations of sexual harassment to the Title IX Coordinator for investigation. These include licensed medical, clinical, or mental-health professionals (when acting in their professional capacities), and clergy/pastoral counselors (when acting in their professional capacities). KSU counseling services and KSU health services staff are confidential resources.

Consent

Clear, knowing, and voluntary words or actions that create mutually understandable permission to engage in sexual activity. The determination of consent will be based on the totality of the circumstances.

- Consent is active, not passive. Silent, passivity, or the absence of resistance, in and of itself, does not constitute consent.
- Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity.
- A previous dating, romantic, or sexual relationship between the individuals involved does not, by itself, imply consent to future sexual acts. Prior consent does not imply ongoing or future consent.
- Consent can be withdrawn at any time, provided that the withdrawal is clearly communicated through words

or actions. Once consent is withdrawn, sexual activity must cease.

- Consent cannot be obtained through force, coercion (including unreasonable pressure), or when an individual is incapacitated or otherwise unable to give legal consent.
- Incapacitation is a state in which an individual cannot make rational, reasonable decisions, because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why, or how” of their interaction). Incapacitation can result from the consumption of alcohol or other drugs, or from being asleep, unconscious, or having an intellectual or other disability that prevents the individual from having the capacity to give consent.
- In accordance with Kentucky Revised Statute (KRS) § 510.020, a lack of consent results from: (a) forcible compulsion; (b) incapacity to consent; or (c) if the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor’s conduct. Further, under KRS § 510.020, a person is deemed incapable of giving consent when he or she is:
 - Less than sixteen (16) years old;
 - Sixteen (16) or seventeen (17) years old and the actor is at least ten (10) years older than the victim at the time of the sexual act;
 - An individual unable to communicate consent or lack of consent, or unable to understand the nature of the act or its consequences, due to an intellectual disability or a mental illness;
 - Mentally incapacitated;
 - Physically helpless; or
 - Under the care or custody of a state or local agency pursuant to court order and the actor is employed by or working on behalf of the state or agency. A clear, comprehensive, and legally sound definition of consent, incorporating relevant state law, is critical for the fair adjudication of alleged sexual misconduct.

The emphasis on consent being an active, ongoing, and voluntary agreement is a cornerstone of this policy.

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence is one of the specific offenses included under the Title IX definition of sexual harassment.

Domestic Violence

Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, or by any other person against an adult or youth complainant who is protected from that person’s domestic or family violence by the domestic or family violence laws of the Commonwealth of Kentucky. Domestic violence is one of the specific offenses included under the Title IX definition of sexual harassment.

Education Program or Activity

Encompasses all of KSU’s operations. This includes locations, events, or circumstances over which KSU exercised

substantial control over both the respondent and the context in which the sexual harassment occurred. It also explicitly includes any building owned or controlled by a student organization that is officially recognized by KSU. This policy applies to conduct occurring against a person in the United States.

Formal Complaint

A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that KSU investigate the allegation of sexual harassment. The filing of a formal complaint is the official act that initiates the formal grievance process outlined in this policy.

Hostile Environment Sexual Harassment

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to KSU's education program or activity. This is one of the three primary categories of conduct that can constitute sexual harassment under Title IX.

Other Sexual Misconduct

Conduct of a sexual nature that does not meet the definition of Title IX sexual harassment or its jurisdictional requirements but is nonetheless prohibited by KSU as it undermines the safety, well-being, and respect within the KSU community. This may include, but is not limited to, sexual exploitation, non-consensual sexual contact that does not meet the severity or pervasiveness threshold for a hostile environment under Title IX, or sexual harassment that occurs outside Title IX's jurisdiction (e.g., outside the United States, or without substantial control by KSU over the respondent and context). Such conduct will be addressed through other applicable KSU policies and procedures, which may mirror the Title IX grievance process where appropriate.

Quid Pro Quo Sexual Harassment

An employee of KSU conditioning the provision of an aid, benefit, or service of KSU on an individual's participation in unwelcome sexual conduct. This is one of the three primary categories of conduct that can constitute sexual harassment under Title IX.

Respondent

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment as defined in this policy.

Retaliation

Intimidation, threats, coercion, or discrimination against an individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, or 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. The prohibition of retaliation is critical for ensuring that individuals feel safe and empowered to report incidents of sexual harassment and to participate in the resolution process without fear of adverse consequences.

Sexual Assault

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) system and as further defined herein.

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Kentucky law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent in Kentucky.

Sexual assault is a key specific offense included under the Title IX definition of sexual harassment.

Sexual Harassment (Title IX Definition)

Conduct on the basis of sex that satisfies one or more of the following:

1. An employee of KSU conditioning the provision of an aid, benefit, or service of KSU on an individual's participation in unwelcome sexual conduct (quid pro quo sexual harassment); or
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to KSU's education program or activity (hostile environment sexual harassment); or
3. "Sexual assault" as defined in this policy, or "dating violence" as defined in this policy, or "domestic violence" as defined in this policy, or "stalking" as defined in this policy. This core definition dictates the scope of conduct that is subject to the specific grievance procedures outlined in this policy.

Stalking

Engaging in a course of 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. For the purposes of this definition:

- 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.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Stalking is one of the specific offenses included under the Title IX definition of sexual harassment.

Supportive Measures

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonable available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to KSU's education program or activity without unreasonably burdening the other party. This includes measures designed to protect the safety of all parties or KSU's educational environment, or deter sexual harassment.

Title IX Coordinator

The employee designated by KSU to coordinate its efforts to comply with its responsibilities under Title IX and its implementing regulations.

PROCESS:

This section outlines the procedures KSU will follow for reporting, investigating, and resolving allegations of sexual harassment under Title IX. These procedures are designed to be prompt, fair, and impartial, and to comply with the requirements of 34 C.F.R. Part 106, specifically §§ 106.44 and 106.45. The 2020 Title IX Regulations mandate a highly structured, almost quasi-judicial grievance process. This necessitates significant institutional resources for training personnel (including investigators, decision-makers, and any advisors provided by the institution for cross-examination purposes), managing live hearings (which may involve technology or remote participation), and maintaining meticulous records of all proceedings. The complexity of this process may, in some cases, lead to longer resolution times despite regulatory mandates for promptness. The Title IX Coordinator plays a pivotal and demanding role in overseeing this entire process.

Reporting Options and Procedures

- **Encouragement of Reporting:** All members of the KSU community are strongly encouraged to report incidents of potential sexual harassment or retaliation promptly. However, reports may be made at any time following an alleged incident, although a significant delay in reporting may impact KSU's ability to gather information or respond effectively.
- **How to Make a Report:** A report can be made to the KSU Title IX Coordinator or the Title IX Office through various means:
 - In person at the Title IX Office.
 - By mail to the Title IX Office.
 - By telephone to the Title IX Coordinator or Title IX Office.
 - By electronic mail to the Title IX Coordinator or Title IX Office.
 - Through KSU's online reporting system.
 - To any KSU official with authority, which includes any employee who has the authority to take corrective action regarding the reported behavior, or whom a student or employee could reasonably believe has such authority or responsibility.
- **Contact Information:** Specific contact information for the Title IX Office and the KSU Police Department is provided in the "CONTACTS" section of this policy. Up-to-date contact information can also be found on KSU's Title IX webpage.
- **Mandatory Reporting by KSU Employees ("Responsible Employees"):**
 - With the exception of individual designated as confidential resources (see below), all KSU employees are considered "responsible employees." Any responsible employee who, in the course of their employment, witnesses or is made aware of an incident or information that reasonably constitutes potential sexual harassment or retaliation under this policy **must** promptly report all known information to the Title IX Coordinator. This report must be made within 72 hours of the employee becoming aware of the information, barring extraordinary circumstances.

- If the reported behavior constitutes an immediate threat to the safety or security of any member of the campus community, responsible employees should first contact the KSU Police Department and then report to the Title IX Coordinator.
- Failure by a responsible employee to make a required report may result in disciplinary action, up to and including termination of employment.
- **Confidential Resources:**
 - Certain KSU employees and off-campus resources are designated as confidential resources. These individuals can provide support and information without an obligation to report identifying details of an incident to the Title IX Coordinator, unless otherwise required by law (e.g., imminent threat of harm, abuse of minor).
 - On-campus confidential resources may include licensed mental health counselors in KSU counseling services and licensed medical professionals in KSU student health services (when acting in their professional capacities).
 - Off-campus confidential resources include local rape crisis counselors, domestic violence advocates, mental health providers, medical professionals, and members of the clergy acting in a confidential and ministerial capacity.
 - Confidential resources will inform individuals of their reporting obligations and limitations on confidentiality. They can also assist individuals in understanding their options and connecting them with the Title IX Coordinator, should they choose to make a formal report.
- **Anonymous Reporting:** KSU permits anonymous reporting of sexual harassment. Anonymous reports will be reviewed by the Title IX Coordinator. However, KSU's ability to investigate and respond to an anonymous report may be limited depending on the amount of information provided.
- **Amnesty:** To encourage reporting and participation in investigations, KSU may offer amnesty from disciplinary action for minor personal student conduct violations (such as the use of alcohol or drugs) that are ancillary to an incident of sexual harassment, for individuals who make a good-faith report of sexual harassment and who participate as a complainant or witness in an investigation under this policy. This amnesty does not preclude educational interventions or referrals to support services.
- **False Reports:** Knowingly making a false report of sexual harassment or knowingly providing false information during an investigation or proceeding under this policy is prohibited and is a serious offense subject to disciplinary action. This provision does not apply to reports made or information provided in good faith, even if the facts alleged are not later substantiated.

Initial KSU Response

- **Title IX Coordinator's Outreach and Initial Assessment:** Upon receiving a report or notice of alleged sexual harassment, the Title IX Coordinator (or designee) will promptly contact the complainant to:
 - Discuss the availability of supportive measures and consider the complainant's wishes with respect to such measures.

- Inform the complainant that supportive measures are available with or without the filing of a formal complaint.
- Explain the process for filing a formal complaint, which is necessary to initiate a formal investigation under this policy.
- Explain the availability of an informal resolution process, where appropriate.
- Provide information about resources available on and off campus.
- **Supportive Measures:**
 - Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent (if a formal complaint or an investigation is initiated). These measures are designed to restore or preserve equal access to KSU's education program or activity without unreasonably burdening the other party, protect the safety of all parties and KSU's educational environment, and/or deter sexual harassment.
 - Examples of supportive measures include, but are not limited to: counseling services, extensions of academic deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties (no-contact orders), changes in KSU-controlled work or housing locations, leaves of absence, and increased security and monitoring of certain areas of the campus.
 - The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures and will maintain the privacy of any supportive measures provided, to the extent practicable and permitted by law.
- **Emergency Removal (Students):**
 - KSU may remove a respondent from its education program or activity on an emergency basis if, after conducting an individualized safety and risk analysis, KSU determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal pending the outcome of the grievance process.
 - In such cases, the respondent will be provided with notice of the emergency removal and an immediate opportunity to challenge the removal decision. The challenge will be reviewed by an appropriate KSU official.
 - To challenge a removal decision, the respondent must request a meeting with the Title IX Coordinator within five (5) business days of notice of the emergency removal. If a meeting is not requested within five (5) business days of the removal notice, the respondent's objections to the emergency removal will be deemed waived. The respondent may attend the meeting with an advisor of their choice and will be permitted to argue against the emergency removal and provide evidence in support of their assertion. The respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation. The Title IX Coordinator shall issue their final decision on the emergency removal within two (2) business days of the meeting.

- The Title IX Coordinator has sole discretion under the policy to implement or stay an emergency removal and to determine the conditions and duration. There is no appeal process for emergency removal decisions.
- This emergency removal provision does not modify any rights afforded to students with disabilities under the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act (ADA).
- **Paid Administrative Leave (Employees):** A KSU employee who is a respondent in a formal complaint under this policy may be placed on paid administrative leave during the pendency of the grievance process. This action is non-disciplinary.

Formal Complaint Process

- **Filing a Formal Complaint:** A formal complaint is a document filed by a complainant alleging sexual harassment against a respondent and requesting that KSU investigate the allegation(s). A formal complaint may also be signed and filed by the Title IX Coordinator.
 - At the time of filing a formal complaint, the complainant must be participating in or attempting to participate in KSU's education program or activity.
 - A formal complaint must be submitted to the Title IX Coordinator.
- **Title IX Coordinator Signing a Formal Complaint:** The Title IX Coordinator may sign and file a formal complaint in situations where, based on the information available, it is determined that such action is necessary to protect the health and safety of the KSU community or to address potential systemic issues of sexual harassment, even if the individual alleged to be the victim (complainant) does not wish to file or participate in a formal complaint. Before signing a formal complaint, the Title IX Coordinator will consider the complainant's wishes and assess any potential risks to the complainant or the KSU community.
- **Notice of Allegations:** Upon receipt of a formal complaint, KSU will provide a written notice of allegations to the known parties (complainant and respondent). This notice will include:
 - A copy of this policy and information about KSU's grievance process, including any available informal resolution process.
 - Sufficient details of the allegations known at the time to enable the respondent to prepare a response before any initial interview. This includes the identifies of the parties involved (if known), the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident(s) (if known).
 - A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
 - Information about the parties' right to have an advisor of their choice, who may be an attorney, present at all meetings and proceedings.
 - Information about the prohibition against knowingly making false statements or submitting false information during the grievance process.

- The notice of allegations will be provided with sufficient time for parties to prepare for an initial interview. Parties will also be notified in writing if, during the course of the investigation, KSU decides to investigate allegations not included in the initial notice of allegations.
- **Dismissal of a Formal Complaint:** A formal complaint, or specific allegations therein, may be dismissed under the following circumstances:
 - **Mandatory Dismissal:** The Title IX Coordinator must dismiss a formal complaint for purposes of sexual harassment under Title IX if the conduct alleged, even if proven:
 - Would not constitute sexual harassment as defined in this policy; or
 - Did not occur within KSU's education program or activity; or
 - Did not occur against a person in the United States.

A mandatory dismissal under Title IX does not preclude KSU from addressing the underlying conduct under other applicable KSU policies.

- **Discretionary Dismissal:** The Title IX Coordinator may dismiss a formal complaint, or specific allegations therein, if:
 - The Complainant notifies the Title IX Coordinator in writing that they desire to withdraw the formal complaint or any specific allegations; or
 - The respondent is no longer enrolled or employed by KSU;
 - Specific circumstances prevent KSU from gathering evidence sufficient to reach a determination regarding responsibility for the alleged sexual harassment (e.g., lack of cooperation from necessary parties or witnesses after reasonable attempts to secure participation).

Upon any dismissal (mandatory or discretionary), KSU will promptly send written notice of the dismissal and the reason(s) therefor simultaneously to both parties. Parties have the right to appeal a dismissal of a formal complaint or any of its allegation on the grounds specified in the "Appeals" subsection of this policy. The mandatory and discretionary dismissal criteria mean that not all reported incidents will proceed through the full Title IX grievance process.

Rights of Parties

Throughout the formal grievance process, both the complainant and the respondent have the following rights:

- To be treated with dignity and respect by KSU officials.
- To have timely and equal access to information and campus support resources, such as counseling, health services, and academic support.
- To experience a safe educational work environment, supported by the availability of supportive measures.
- To have an advisor of their choice, who may be an attorney, present to provide support and advice at any meeting or proceeding related to the formal grievance process.

- To refuse to participate in an informal resolution process and to proceed with the formal grievance process.
- To receive amnesty from KSU disciplinary action for minor personal student conduct violations under the conditions specified in the “Amnesty” provision of this policy.
- To be free from retaliation for reporting sexual harassment or participating in the grievance process.
- To receive timely written notice of allegations, meetings, hearings, outcomes, and appeal procedures.
- To an impartial investigation and resolution process, free from conflicts of interest and bias.
- To have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which KSU does not intend to rely in reaching a determination and inculpatory or exculpatory evidence, whether obtained from a party or other source.
- The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
- To a live hearing for the determination of responsibility, as detailed in this policy.
- To appeal the determination regarding responsibility or a dismissal of a formal complaint on the grounds specified in this policy.

Informal Resolution Process

KSU may offer an informal resolution process as an alternative to the formal grievance process to resolve allegations of sexual harassment, under specific conditions.

- Informal resolution may be offered at any time prior to reaching a determination regarding responsibility in the formal grievance process.
- Informal resolution is not available to resolve allegations that an employee of KSU sexually harassed a student.
- Participation in an informal resolution must be voluntary. KSU requires the informed, written consent of all parties (complainant and respondent) before initiating an informal resolution process.
- Parties have the right to withdraw from the informal resolution process and resume the formal grievance process at any time prior to agreeing to a resolution.
- The informal resolution process will be facilitated by a trained, impartial individual who is not the investigator or decision-maker in the same matter.
- Any agreed-upon terms of an informal resolution will be documented and signed by the parties and a KSU representative. Once an agreement is reached and documented, the matter is considered resolved and may not be reopened under this policy for the same allegations. Failure to abide by the terms of an agreed-upon resolution may result in further action.

Formal Grievance Process: Investigation

If a formal complaint is filed and not dismissed or resolved through an informal resolution, KSU will conduct a formal investigation.

- **Investigator(s):** The Title IX Coordinator will assign one (1) or more impartial investigator(s) trained in Title IX compliance and investigation techniques. Investigators must be free from conflicts of interest and bias for or against complainants or respondents generally, or for or against the individual complainant or respondent.
- **Burden of Proof and Evidence Gathering:** The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests with KSU, not on the parties.
- **Equal Opportunity for Parties:** Both the complainant and the respondent will have an equal opportunity to identify witnesses and provide other inculpatory (incriminating) or exculpatory (absolving) evidence relevant to the allegations.
- **Evidence Review by Parties:**
 - Prior to the completion of the investigative report, KSU will send to each party and their advisor, if any, all evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including evidence upon which KSU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source. This evidence will be provided in an electronic format or a hard copy.
 - Parties will have at least ten (10) calendar days to inspect, review, and submit a written response to this evidence. The investigator(s) will consider these written responses prior to the completion of the investigative report.
- **Investigative Report:**
 - Following the evidence review period, the investigator(s) will create a written investigative report that fairly summarizes all relevant evidence gathered during the investigation.
 - The final investigative report will be sent in electronic format or hard copy to each party and their advisor, if any, at least ten (10) calendar days prior to a live hearing.
- **Training of Investigators:** Investigators must receive annual training on issues related to sexual harassment, the scope of KSU's education program or activity, how to conduct an investigation that is fair and impartial, how to serve impartially (including avoiding prejudgment of the facts at issue, conflicts of interest, and bias), issues of relevance of evidence (including when questions and evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant), and the rights of parties under this policy and Title IX.
- **Privileged Information:** KSU will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and

which are made and maintained in connection with the provision of treatment to the party, unless KSU obtains that party's voluntary, written consent to do so.

Formal Grievance Process: Live Hearing

Following the investigation and issuance of the final investigative report, KSU will conduct a live hearing to determine responsibility for the alleged sexual harassment.

- **Decision-Maker:** A single, impartial decision-maker will conduct the live hearing and make the determination regarding responsibility. The decision-maker will not be the same person as the Title IX Coordinator or the investigator(s) in the same matter. The decision-maker must be free from conflicts of interest and bias and must receive annual training consistent with regulatory requirements.
- **Live Hearing Required:** KSU will conduct a live hearing for all formal complaints not dismissed or resolved through an informal resolution.
- **Remote Participation:** The live hearing may be conducted with all parties physically present in the same geographic location or—at KSU's discretion, or upon the request of either party—any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- **Advisor Role in Hearing and Cross-Examination:**
 - Parties have the right to have their advisor of choice present at the live hearing.
 - Cross-examination of parties and witnesses at the live hearing must be conducted directly, orally, and in real time by the party's advisor, and never by a party personally.
 - If a party does not have an advisor present at the live hearing, KSU will provide, without fee or charge to that party, an advisor of KSU's choice to conduct cross-examination on behalf of that party. This KSU-provided advisor may be, but is not required to be, an attorney.
- **Relevance Determinations During Cross-Examination:** Before a party or witness answers a cross-examination question, the decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are presumed not relevant, with limited exceptions:
 - If such questions and evidence are offered to prove that someone other than the respondent committed the alleged conduct; or
 - If the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.
- **Refusal to Submit to Cross-Examination:** If a party or witness does not submit to cross-examination at the live hearing, the decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility. However, the decision-maker cannot draw an inference about whether sexual harassment occurred based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

- **Recording of Hearing:** KSU must create an audio or audiovisual recording, or a transcript, of any live hearing held under this policy. This recording or transcript will be made available to the parties for inspection and review upon request.

Determination of Responsibility and Sanctions

- **Standard of Proof:** The determination of responsibility will be made using the “preponderance of the evidence standard.” This means that the decision-maker will determine whether it is more likely than not that the respondent violated this policy.
- **Written Determination:** Following the live hearing, the decision-maker will issue a written determination regarding responsibility. This written determination will be provided simultaneously to both parties and will include:
 - Identification of the specific allegations of sexual harassment.
 - A description of the procedural steps taken by KSU 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 evidence, and hearings held.
 - Findings of fact supporting the determination.
 - Conclusions regarding the application of KSU’s policy (and the definition of sexual harassment) to the facts.
 - A statement of, and rationale for, the results as to each allegation, including a determination regarding responsibility.
 - If the respondent is found responsible, any disciplinary sanctions imposed on the respondent.
 - If the respondent is found responsible, a statement of whether remedies designed to restore or preserve equal access to KSU’s education program or activity will be provided by KSU to the complainant.
 - Information regarding the procedures and permissible bases for appeal.
- **Sanctions:** If a respondent is found responsible for violating this policy, KSU will impose disciplinary sanctions. Sanctions will be designed to be fair and proportionate to the severity of the violation, to end the sexual harassment, prevent its recurrence, and remedy its effects on the complainant and the KSU community. The decision-maker, in consultation with relevant KSU officials (such as Student Affairs personnel for student respondents and Human Resources personnel for employee respondents), will determine appropriate sanctions. Factors considered may include the nature and severity of the conduct, any prior disciplinary history of the respondent, the impact of the conduct on the complainant and the KSU community, and any mitigating or aggravating circumstances.

The following table outlines recommended sanctions that may be imposed on students or employees found responsible for violating this policy. This list is not exhaustive, and KSU reserves the right to impose other sanctions as deemed appropriate. Sanctions may be imposed individually or in combination.

Form of Sexual Harassment	Recommended Range of Student Sanctions	Recommended Range of Employee Sanctions
Quid Pro Quo	Disciplinary probation, counseling assessment, social restrictions, social suspension, suspension, expulsion	Probation, written warning, counseling assessment, suspension, termination
Hostile Environment	Disciplinary probation, counseling assessment, social restrictions, social suspension, suspension, expulsion	Probation, written warning, counseling assessment, suspension, termination
Sexual Assault	Suspension, expulsion	Suspension, termination
Dating Violence or Domestic Violence	Disciplinary probation, counseling assessment, social restrictions, social suspension, suspension, expulsion	Probation, written warning, counseling assessment, suspension, termination
Stalking	Disciplinary probation, counseling assessment, social restrictions, social suspension, suspension, expulsion	Probation, written warning, counseling assessment, suspension, termination

Appeals

Either party (complainant or respondent) may appeal the decision-maker's determination regarding responsibility and/or KSU's dismissal of a formal complaint or any of its allegations.

- **Grounds for Appeal:** Appeals are limited to the following grounds:
 - A procedural irregularity that affected the outcome of the matter (e.g., a material deviation from established procedures).
 - New evidence, which 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, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally, or the individual complainant or respondent, that affected the outcome of the matter.
- **Appeal Process:**
 - Appeals must be submitted in writing to the appeals officer within five (5) business days of the delivery of the written determination or dismissal. The Title IX Coordinator or decision-maker shall notify the parties of who the appeals officer is for a particular matter.
 - The written appeal must specify the ground(s) for appeal and include supporting information.
 - The non-appealing party will be notified of the appeal and provided an opportunity to submit a written statement in response within five (5) business days.
 - The appeals officer will review the written submissions and the record of the original matter to determine if the grounds for appeal have been met.

- Appeals granted based on procedural irregularity shall be remanded to the decision-maker, who will reopen the hearing and correct the procedural irregularity. If the appeal is that the procedural irregularity occurred during the investigation, the appeals officer will remand the investigation back to the Title IX office to correct the error. In rare cases in which the procedural irregularity cannot be fixed, such as conflict of interest, the appeals officer may remand the case back to the Title IX Office for a new investigation with a new investigator.
- For appeals granted based on bias or conflict of interest, the appeals officer shall review the entire record of the grievance process to determine whether there was any conflict or bias on the part of the Title IX Coordinator, investigator(s), or decision-maker, and whether or not bias or conflict affected the outcome. If it is determined that there was no bias or conflict, the appeals officer will issue a written determination affirming the determination of the decision-maker. If it is determined there was a bias or conflict, the appeals officer will remand the matter back to the stage where the conflict was present, and the matter will restart with a new investigator or decision-maker, as appropriate.
- Appeals granted based on new information shall be remanded to the investigative stage to determine if sufficient information exists to suggest there may be a violation of the policy. If so, then the matter will be reheard by the decision-maker, with the new information included in the hearing.
 - The appeals officer will issue a written decision describing the result of the appeal and the rationale for the result. The decision will be provided simultaneously to both parties.
 - The decision of the appeals officer is final.
- **Status of Sanctions During Appeal:** Any disciplinary sanctions imposed will typically be stayed (held in abeyance) during the appeal process. Supporting measures may remain in effect or be modified as appropriate.

Remedies

If a respondent is found responsible for sexual harassment, KSU will provide remedies to the complainant that are designed to restore or preserve the complainant's equal access to KSU's education program or activity. Such remedies may be disciplinary or non-disciplinary and need not avoid burdening the respondent.

Examples of remedies include, but are not limited to: providing academic support services, arranging for counseling, implementing or continuing no-contact orders, facilitating changes in academic or living situations (if reasonably available and desired by the complainant), or other measures tailored to address the effects of the harassment on the complainant. The Title IX Coordinator is responsible for the effective implementation of remedies.

Estimated Timelines for Grievance Process

KSU is committed to the prompt resolution of all formal complaints. The following table provides estimated timeframes for the major stages of the formal grievance process. These timeframes are guidelines and may be extended for good cause, with written notice to the complainant and respondent of the delay and the reason

for the extension (e.g., complexity of the case, availability of witnesses, breaks in the academic calendar, concurrent law enforcement activity).

Stage of Process	Estimated Timeframe
Initial Assessment of Formal Complaint	1–5 business days from receipt of formal complaint.
Issuance of Notice of Allegations	Within 5–7 business days of accepting formal complaint.
Investigation Period	Typically, 30–60 business days from issuance of the notice of allegations. Extensions may occur for good cause.
Party Review of Evidence & Draft Investigative Report	At least 10 calendar days for parties to review evidence and submit written responses to the investigator(s).
Issuance of Final Investigative Report (Pre-Hearing)	At least 10 calendar days prior to the scheduled live hearing.
Scheduling of Live Hearing	Typically, within 15–20 business days after issuance of final investigative report, subject to participant availability.
Issuance of Written Determination	Typically, within 10–15 business days after the conclusion of the live hearing and deliberation.
Filing an Appeal	Within 5 business days of delivery of the written determination or notice of dismissal.
Resolution of Appeal	Typically, within 15–30 business days from receipt of all appeal documentation.

Record-Keeping

KSU will maintain for a period of at least seven (7) years records of:

- Each sexual harassment investigation, including any determination regarding responsibility and any audio or audiovisual recording or transcript of any live hearing;
- Any disciplinary sanctions imposed on the respondent;
- Any remedies provided to the complainant designed to restore or preserve equal access to KSU's education program or activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom;
- All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process; and
- For each response required under § 106.44 (recipient's response to sexual harassment), documentation of the basis for its conclusion that its response was not deliberately indifferent, and documentation of measures taken to restore or preserve equal access.

REFERENCES AND RELATED MATERIALS:

- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq.
- Implement Regulations for Title IX at 34 C.F.R. Part 106
- The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f)
- The Violence Against Women Reauthorization Act of 2013 (VAWA), Section 304 (amending the Clery Act)
- Kentucky Revised Statutes (KRS), including but not limited to KRS § 510.020 (Definition of Consent)
- KSU Policies and Procedures

CONTACTS:

Subject	Office	Telephone	E-mail
Policy Questions and Reporting	Title IX	(502) 597-5500	Michael.DeCourcy@kysu.edu
Policy Interpretation	General Counsel	(502) 597-6414	Zachary.Atwell@kysu.edu General.Counsel@kysu.edu

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