

## TITLE IX POLICIES

The University has policies and procedures in place regarding the receipt, investigation, and resolution of complaints of discrimination, including sex discrimination. Sexual Harassment includes three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect: a) Any instance of *quid pro quo* harassment by a University employee; b) Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and c) Any instance of Sexual Assault, dating violence, domestic violence, or Stalking. This Policy and these Procedures are designed specifically to address violations of Title IX resulting from Sexual Harassment.

### I. Non-Discrimination Policy

It is the policy of the University not to discriminate in its educational programs, activities, or employment on the basis of sex, physical or mental disability, pregnancy, race, age, color, national or ethnic origin, veteran status, genetic information, or any other category protected by applicable federal, state, or local law.

### II. Non-Discrimination Procedures

#### A. Definitions

1. “Complainant” is the individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

2. “Formal Complaint” is a document filed by a Complainant or signed by the Title IX Coordinator and/or an appropriate Title IX representative alleging Sexual Harassment against a Respondent and requesting that the University investigate the allegation of Sexual Harassment. At the time of filing the Formal Complaint the Complainant must be participating in or attempting to participate in the education Program or Activity of the University with which the Formal Complaint is filed. “A document file by a Complainant” means a physical document or electronic submission, such as by an e-mail or through an online portal provided for this purpose by the University, that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not considered a Complainant nor a party during the grievance process and must comply with all requirements to be free of conflict and bias.

3. “Program or Activity” includes locations, events, or circumstances over which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by the University, such as an athletic facility. This policy applies to all of the University’s educational Programs or Activities, whether they occur on or off campus. The University, at its discretion, may address Sexual Harassment

affecting its students or employees that falls outside of this policy in any manner it chooses, including providing supportive measures or pursuing discipline.

4. “Respondent” is the individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

5. “Sexual Assault” is a form of discrimination on the basis of sex. “Sexual Assault” includes any sexual act against another person without consent, including instances where the victim is incapable of consent.

6. “Sexual Harassment” is a form of discrimination on the basis of sex. “Sexual Harassment” includes three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect: a) Any instance of *quid pro quo* harassment by a University employee; b) Any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; and c) Any instance of Sexual Assault, dating violence, domestic violence, or Stalking.

7. “Stalking” is a form of discrimination on the basis of sex. “Stalking” includes engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

8. “Supportive Measures” are individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party which designed to ensure equal educational access, protect safety, or deter Sexual Harassment. The University’s selection of Supportive Measures and remedies provided to a Complainant must be clearly reasonable in the light of the known circumstances when a Respondent is found responsible for engaging in Sexual Harassment.

## B. Reporting Charges of Sexual Harassment

### 1. Designation of a Title IX Coordinator

The person designated by the University to coordinate its efforts to comply with its Title IX responsibilities is referred to as the “Title IX Coordinator.”

The University Title IX Coordinator is:

\*Laura Schaaf, M.S.L.

Whose contact information is:

\*[Laura.Schaaf@point.edu](mailto:Laura.Schaaf@point.edu)  
office: (706) 385-1122

The University shall notify, at least annually, students, employees, applicants for admission and employment, the name, title, office address, e-mail address, and telephone number of the Title IX Coordinator. The University shall prominently display on its website the contact information of the Title IX Coordinator.

## 2. Reports

Any person may report sex discrimination, including Sexual Harassment (whether or not the person reporting is the person alleged to be the person subject to conduct that could constitute sex discrimination or Sexual Harassment, including parents and guardians), in person, by mail, by telephone, or by e-mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such report may be made at any time, including non-business hours, by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator.

All University employees, other than Counselors specifically designated as confidential resources for students to discuss Sexual Harassment without automatically triggering a report to the Title IX Coordinator, must report Sexual Harassment to the Title IX Coordinator. All University employees will be trained at least annually of their obligations to report Sexual Harassment.

## 3. Response to Reports

The University shall respond to a report of Sexual Harassment when the Sexual Harassment occurs against a person in the United States in a University education Program or Activity. The University must provide the following in response to such a report of Sexual Harassment:

a) The University must offer supportive measures to the Complainant. The Title IX Coordinator must promptly contact the complainant confidentially to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process of filing a formal complaint.

b) The University must follow the grievance process before the imposition of any disciplinary sanctions or other actions against Respondent.

c) The University must comply with the rights of both Complainant and Respondent protected under the United States Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment in administering this Policy.

d) The University must investigate allegations of Sexual Harassment in any Formal Complaint filed by a Complainant or signed by the Title IX Coordinator.

e) The Complainant's wishes with respect to whether the University investigates allegations of Sexual Harassment should be respected unless the Title IX Coordinator determines that signing a formal complaint to initiate an investigation over the wishes of the Complainant is necessary in light of the known circumstances.

f) If the allegations in a Formal Complaint filed by a Complainant do not meet the definition of Sexual Harassment in this Policy or did not occur in the University's education Program or Activity against a person in the United States, the University must dismiss complaint for the purposes of this Policy but may still address the allegations in any manner the University deems appropriate under its own code of conduct.

### C. Grievance Process

#### 1. General Provisions

a) The University Grievance Process is designed to be a consistent, transparent, process for resolving Formal Complaints of Sexual Harassment. The Grievance Process treats Complaints equitably by providing remedies any time a Respondent is found responsible and treats Respondents equitably by not imposing disciplinary sanctions without following the Grievance Process.

b) Remedies must be provided to a Complainant when a Respondent is found responsible and must be designed to maintain the Complainant's equal access to education and may include the same individualized services or Supportive Measures; however, remedies may be disciplinary or punitive and need not avoid burdening the Respondent.

c) The University Grievance Process requires the objective evaluation of all relevant evidence, inculpatory and exculpatory, and avoid credibility determinations based on a person's status as a Complainant, Respondent, or witness.

d) All University personnel charged with implementing this Title IX Policy and these Procedures, including Title IX Coordinators, investigators, decision-makers, and personnel who facilitate any informal resolution process, must be free of conflicts of interest or bias for or against Complainants or Respondents. All such personnel must be trained in the application of this Policy and these Procedures in an impartial manner, free of conflicts of interest and bias. Decision-makers must be trained in the use of technology to be used in hearings. Decision-makers and investigators must be trained on issues of relevance and the application of rape shield protections for Complainants. All training materials shall be posted on the University's website and made available for public inspection.

e) Throughout the Grievance Process the Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Grievance Process.

f) The Grievance Process shall be concluded promptly, including appeals and informal resolutions, with allowance for short-term, good cause, delays or extensions.

g) The possible remedies a University may provide a Complainant and disciplinary sanctions a University may impose on a Respondent following a determination of responsibility range from no remedy or sanction up to retroactive or prospective program continuance and counseling for the Complainant and expulsion and campus banishment for the Respondent. Remedies and sanctions are to be determined by the Decision-makers after hearing all relevant evidence.

h) A determination of responsibility shall be based upon *preponderance of the evidence* for all Formal Complaints of Sexual Harassment, including where employees and faculty are Complainants or Respondents.

i) A determination of responsibility may be appealed to the President of the University. During the pendency of the appeal all Supportive Measures provided for Complainant and Respondent shall continue. No disciplinary sanctions shall be effective until the conclusion of the appeal.

j) The Grievance Process may not use, rely on, or seek disclosure of information protected under any legally recognized privilege unless the holder of the privilege has waived it.

k) All policies, procedures, rules, and practices under the Grievance Process must apply equally to both parties.

## 2. Investigation

a) The University must investigate allegations of Sexual Harassment in any Formal Complaint and send written notice to Complainant and Respondent of the allegations upon receipt of a Formal Complaint.

b) Throughout the Grievance Process and the Investigation the burden of gathering evidence and the burden of proof is on the University and not on either party to the Formal Complaint.

c) The University may not restrict either party to the Formal Complaint from discussing the allegations or gathering evidence.

d) The parties to the Formal Complaint may select an advisor who may be, but need not be, an attorney.

e) The University shall send to the parties to the Formal Complaint and to their advisors written notice of investigative interviews, meetings, or hearings, and evidence directly related to the allegations in electronic format or hard copy, with at least 10

days for the parties to review and respond. The University may not access or use a party's medical, psychological, and other similar records without the party's voluntary, written consent.

f) The University must dismiss all allegations in a Formal Complaint that do not meet the definition of Sexual Harassment or did not occur in the University's education Program or Activity against a person in the United States. Such dismissal does not preclude the University from pursuing disciplinary action for violation of its code of conduct.

g) The University may dismiss a Formal Complaint or any allegations therein if the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the Formal Complaint or allegations therein, if the Respondent is no longer enrolled or employed by the University, or if specific circumstances prevent the University from gathering sufficient evidence to reach a determination.

h) The University must give the parties to a Formal Complaint and their advisors written notice of dismissal and the reasons for dismissal.

i) The University may consolidate a Formal Complaint with others where the allegations arise out of the same or similar facts.

### 3. Hearing

a) The University will provide a live hearing with an opportunity for cross-examination for any Formal Complaint not resolved at the Investigation stage.

b) At the hearing the Decision-makers must permit each party's advisor to ask the other party and any witness all relevant questions and follow up questions, including those challenging credibility. Such cross-examination at the hearing must be conducted directly, orally, and contemporaneously by the party's advisor, and not by the party personally. At the request of either party, the hearing, including cross-examination, may occur with the parties located in separate rooms with appropriate technology to allow each party to see and hear the other.

c) Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or witness answers a question on cross-examination, the Decision-makers must first determine whether the question is relevant and explain to the advisor asking the question any decision to exclude the question as not relevant.

d) If a party does not have an advisor present at the hearing, the University must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.

e) If a party or a witness does not submit to cross-examination, the Decision-makers must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, that the Decision-makers cannot draw an

inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions on cross-examination.

f) Hearings may be conducted with all parties physically present in the same geographic location or, at the discretion of the University, any or all parties, witnesses or other participants may appear at the hearing virtually.

g) The University must create a record of the hearing, either an audio recording, an audio/visual recording, or a written transcript.

h) The University must provide rape shield protections for the Complainant, deeming irrelevant all questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or to prove consent.

i) The Decision-makers must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, the rationale for the result as to each allegation, any disciplinary sanctions imposed on the Respondent and whether any remedies shall be provided the Complainant. The written determination must be sent simultaneously to the parties and their advisors with information on how to file an appeal.

j) The Decision-makers shall be the body to which student disciplinary matters are referred unless the University specifically appoints a Title IX hearing panel.

#### 4. Appeal

a) Either party may appeal from a determination of responsibility or from the University's dismissal of a Formal Complaint or any allegations therein, on the following bases: procedural irregularity that affected the outcome of the matter, newly discovered evidence that could affect the outcome of the matter, or Title IX personnel had a conflict of interest or bias that affected the outcome of the matter.

b) The appeal must be filed with the President within 10 days of notice of the decision being appealed.

#### 5. Informal Resolution

a) The parties may mutually agree to an informal resolution of the allegations in the Formal Complaint if they both give voluntary, informed, written consent. However, informal resolution shall not be available for allegations of Sexual Harassment by an employee of a student. Any employee of the University may facilitate informal resolution so long as they are properly trained. A party may withdraw from informal resolution at any time.

b) The University may not require the waiver of any right provided by this Policy and these Procedures.

6. Retaliation Prohibited

a) No person may be retaliated against for pursuing or supporting any actions permitted under this Policy and these Procedures. Complaints alleging retaliation shall be treated as a Formal Complaint under this Policy and these Procedures. The exercise of rights protected by the First Amendment do not constitute retaliation.

b) Charging an individual with code of conduct violations that do not involve Sexual Harassment, but arise out of the same facts as a Report or Formal Complaint, for the purpose of interfering with any right under this Policy and these Procedures, constitutes retaliation.

c) The University must keep confidential the identity of Complainants, Respondents, and witnesses, except as may be permitted by FERPA, as required by law, or as necessary to carry out a Title IX proceeding.

d) Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance proceeding does not constitute retaliation; however, a determination regarding responsibility alone is not sufficient to conclude that any party made a bad faith materially false statement.

7. Implementation

The Title IX Coordinator, in consultation with the University General Counsel, shall adopt written rules and practices to implement this Policy and these Procedures. The rules and practices shall be posted on the University Website and provided to Complainants and Respondents.

8. Effective Date; Amendments

This Policy and these Procedures shall be effective August 14, 2020. Any amendments to this Policy and these Procedures shall be effective when posted on the University Website.