

AVE MARIA UNIVERSITY'S TITLE IX SEXUAL HARASSMENT GRIEVANCE POLICY & PROCEDURE

Introduction

Ave Maria University is committed to maintaining a positive learning and working environment for students, faculty and staff. Sexual harassment, a form of sex discrimination, detracts from a positive environment and is absolutely prohibited. As a Catholic university that believes in the inherent dignity and worth of each and every person, Ave Maria University prohibits sexual harassment and all forms of sexual violence as inimical to the common good and deeply offensive to the God-given dignity and worth of the person.

This Title IX Sexual Harassment Grievance Policy & Procedure will be used to process any report or complaint of “Title IX Sexual Harassment,” as defined herein. Any person may report Title IX Sexual Harassment under this policy & procedure, whether or not the reporting party is the person alleged to be the victim of the conduct. Reports of Title IX Sexual Harassment may be made in person, by mail, by telephone, or by electronic mail at any time (including during non-business hours) directed to the Title IX Coordinator using the contact information contained in this policy & procedure. If an Official With Authority, as defined herein, receives a report or otherwise has knowledge of a report or incident of Title IX Sexual Harassment, the Official With Authority must promptly report such information to the Title IX Coordinator.

Processing a report or complaint under this Title IX Sexual Harassment Grievance Policy & Procedure does not preclude processing some or all allegations of a report or complaint under other policies and procedures, to the extent allowed by Title IX and other laws.

This grievance policy & procedure complies with all requirements of Title IX and its implementing regulations and provides required notice of the procedure used to respond to complaints of Title IX Sexual Harassment for necessary stakeholders.

If the regulations implementing Title IX at 85 Fed. Reg. 30026, 30026-30579, are enjoined or invalidated by a Federal Court with jurisdiction over the University or reversed or replaced by any agency with sufficient authority, this Title IX Sexual Harassment Grievance Policy & Procedure will immediately cease to apply to reports and complaints of sexual harassment and sexual misconduct, including Title IX Sexual Harassment, unless and until any such injunction, invalidation, reversal, or replacement is overturned or reversed.

Definitions

“Actual Knowledge”—Notice of Title IX Sexual Harassment or allegations of Title IX Sexual Harassment to the University’s Title IX Coordinator or to any Official With Authority, as defined herein. Assumption of knowledge based solely on the University’s status as an employer or other presumption under law does not constitute Actual Knowledge. This standard is not met when the only official of the University with Actual Knowledge is the Title IX Respondent.

“Notice” as used here includes, but is not limited to, a report or complaint of Title IX Sexual Harassment to the Title IX Coordinator or any Official With Authority in person, by mail, by telephone, or by email using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator or University Official With Authority receiving the person’s verbal or written report.

“Business Days”—Days on which the University main office is open.

“Consent”— Informed, freely given, mutually and clearly understandable words or actions that convey, and are intended to be taken as conveying, a willingness to engage in sexual activity. A person can withdraw consent at any time. There is no consent when there is force, threats, intimidation, or duress. A person’s lack of verbal or physical resistance or manner of dress do not constitute consent. Consent to past sexual activity with another person does not constitute consent to future sexual activity with that person. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person. A person cannot consent to sexual activity if the person is unable to understand the nature, fact, or extent of the activity or give knowing consent due to circumstances including without limitation the following:

1. the person is incapacitated due to the use or influence of alcohol or other drugs;
2. the person is asleep or unconscious;
3. the person is under the legal age to provide consent; or
4. the person has a disability that prevents such person from having the ability or capacity to give consent.

“Education Program or Activity”—Locations, events, or circumstances in the United States over which the University exercises substantial control over both the Title IX Respondent and the context in which Title IX Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University. Depending on the facts, this phrase may extend to off-campus Title IX Sexual Harassment incidents.

“Officials With Authority”—Includes any official designated by the University to have authority to institute corrective measures on behalf of the institution, including the President, the Chief of Staff, and any vice president.

“Title IX Appellate Decisionmaker”—One or more individuals designated to conduct an appeal required by Title IX and this Title IX Sexual Harassment Grievance Policy & Procedure. The Title IX Appellate Decisionmaker cannot be the Title IX Coordinator, the Title IX Investigator, or the Title IX Decisionmaker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement this Title IX Sexual Harassment Grievance Policy & Procedure and to serve impartially.

“Title IX Complainant”—An individual who is alleged to be the victim of conduct that could constitute Title IX Sexual Harassment.

“Title IX Coordinator”—An individual designated and authorized by the University to coordinate its efforts to comply with and carry out its responsibilities under the regulations implementing Title IX. The Title IX Coordinator’s contact information can be found in this policy & procedure.

“Title IX Formal Complaint”—A document filed by a Title IX Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Title IX Respondent and requesting that the University investigate the allegation. At the time of filing a Formal Title IX Complaint, a Title IX Complainant must be participating in or attempting to participate in the University’s Education Program or Activity within which the Formal Title IX Complaint is filed. A Formal Title IX Complaint may be filed with the Title IX Coordinator in person, by mail, or by email, by using the contact information required to be listed for the Title IX Coordinator in the University’s Nondiscrimination Policy and included in this Policy & Procedure. As used here, the phrase “document filed by a Title IX Complainant” means a document or electronic submission (such as by email or paper or electronic form provided for this purpose by the University) that contains the Title IX Complainant’s physical or digital signature, or otherwise indicates that the Title IX Complainant is the person filing the Formal Title IX Complaint. Where the Title IX Coordinator signs a Formal Title IX Complaint, the Title IX Coordinator is not a complainant or otherwise a party under this Title IX Sexual Harassment Grievance Policy & Procedure.

“Title IX Informal Resolution Facilitator”—An individual designated by the Title IX Coordinator to seek an informal resolution of a Formal Title IX Complaint in accordance with this Title IX Sexual Harassment Grievance Policy & Procedure. The Title IX Informal Resolution Facilitator must be free from conflicts of interest or bias against Complainants and Respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement this Title IX Sexual Harassment Policy & Procedure and to serve impartially.

“Title IX Investigator”—An individual designated to investigate a Formal Title IX Complaint according to this Title IX Sexual Harassment Grievance Policy & Procedure. The Title IX Investigator cannot be the Title IX Decisionmaker or the Title IX Appellate Decisionmaker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement this Title IX Sexual Harassment Grievance Policy & Procedure and to serve impartially.

“Title IX Respondent”—An individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

“Title IX Sexual Harassment—Conduct on the basis of sex that satisfies one or more of the following:

- A University employee conditions the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct; or

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity; or
- *Sexual assault* as defined in 20 U.S.C. §1092(f)(6)(A)(v), *dating violence* as defined in 34 U.S.C. §12291(a)(10), *domestic violence* as defined in 34 U.S.C. §12291(a)(8), or *stalking* as defined in 34 U.S.C. §12291(a)(30).
 - *Sexual assault* means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system (UCR Program) of the Federal Bureau of Investigation (FBI). 20 U.S.C. §1092(f)(6)(A)(v). For more information regarding the FBI UCR Program, *see* www.fbi.gov/services/cjis/ucr/.
 - *Dating violence* means violence committed by a person: (1) who is or has been in a social relationship of a romantic or intimate nature with the victim, and (2) where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 34 U.S.C. §12291(a)(10).
 - *Domestic violence* includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of Florida. 34 C.F.R. §12291(a)(12).
 - *Stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others, or (2) suffer substantial emotional distress. 34 C.F.R. §12291(a)(30).

“Title IX Supportive Measures”—Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Title IX Complainant or Respondent before or after the filing of a Formal Title IX Complaint or where no Formal Title IX Complaint has been filed. Such measures are designed to restore or preserve equal access to the University’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment and deter sexual harassment. Title IX Supportive Measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

“Title IX Team”—The group of individuals responsible for addressing reports and complaints of Title IX Sexual Harassment, including the Title IX Coordinator or designee, Title IX Investigators, Title IX Decisionmakers, Title IX Appellate Decisionmakers, and Title IX Informal Resolution Facilitators.

“Title IX Decisionmaker”—An individual designated by the Title IX Coordinator or designee to reach a determination regarding responsibility in a Formal Title IX Complaint by applying the clear and convincing evidence standard of proof. The Title IX Decisionmaker cannot be the Title IX Coordinator, the Title IX Investigator, or Title IX Appellate Decisionmaker assigned to the same Formal Complaint, must be free from conflicts of interest or bias against complainants and respondents generally and against an individual Title IX Complainant or Respondent, and must be trained to properly implement this Title IX Sexual Harassment Grievance Policy & Procedure and to serve impartially.

AMU Good Faith Disclosure Policy

Ave Maria University is concerned first and foremost with the safety of the entire campus community. Students may be hesitant to report to University officials the occurrence of Title IX Sexual Harassment because they are concerned about charges for violating the University’s Code of Student Conduct or the University’s Sexual Morality and/or Visiting Hours policies. While violations of the Code of Student Conduct, Sexual Morality, and/or Visiting Hour policies are not condoned by the University, the University encourages individuals to report potential Title IX Sexual Harassment. Ave Maria University will not pursue disciplinary action against students for disclosure of personal violations of the Code of Student Conduct, the Sexual Morality, and/or the Visiting Hours policies, where the disclosure is made in connection with a good faith report or investigation of prohibited Title IX Sexual Harassment. The University may initiate an educational discussion or pursue other non-disciplinary options regarding University violations that may have occurred.

Title IX Grievance and Investigation Procedures

If the University has Actual Knowledge of Title IX Sexual Harassment, the University shall respond in a manner that is not clearly unreasonable in light of the known circumstances by using this Title IX Sexual Harassment Grievance Policy & Procedure. No person designated or serving as a Title IX Coordinator or designee, Title IX Investigator, Title IX Decisionmaker, Title IX Appellate Decisionmaker or Title IX Informal Resolution Facilitator will have a conflict of interest or bias for or against Title IX Complainants or Respondents generally or against an individual Title IX Complainant or Title IX Respondent. The University’s Title IX Office is responsible for investigating complaints of Title IX Sexual Harassment. Nothing in this Policy and Procedure shall be construed or interpreted in a manner that is inconsistent with the Ave Maria University Faculty Handbook or an individual faculty member’s employment contract. The University’s response will include, at a minimum, the following:

Whether or not a Formal Complaint alleging Title IX Sexual Harassment is filed, at a minimum, the Title IX Coordinator or designee will:

1. Initiate an initial meeting with the Title IX Complainant to:
 - a. Discuss the availability of Supportive Measures;
 - b. Inquire about and consider the Title IX Complainant’s wishes with respect to Supportive Measures;
 - c. Inform the Title IX Complainant of the availability of Supportive Measures

with or without the filing of a Formal Complaint; and

- d. Explain to the Title IX Complainant the process for filing a Formal Complaint as set forth in this Title IX Sexual Harassment Grievance Policy & Procedure.

Supportive Measures: The University will maintain as confidential any supportive measures provided to the Title IX Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures. The University may not impose any disciplinary sanctions or other actions that are not Supportive Measures against a Title IX Respondent unless a Formal Complaint has been filed and a finding of responsibility has been issued against the Title IX Respondent under this Title IX Sexual Harassment Grievance Policy & Procedure.

Emergency Removals/Leaves of Absence: The University may, however, remove a student-Title IX Respondent from its education program or activity on an emergency basis, provided that the University makes an individualized safety and risk analysis, 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, and provides the Title IX Respondent with notice and an opportunity to challenge the decision immediately following the removal. The University also may place a non-student employee Title IX Respondent on paid administrative leave during the pendency of this Title IX Sexual Harassment Grievance Policy & Procedure. Such emergency removals/leaves of absence must comply with any other relevant laws, policies, administrative procedures, and agreements governing removals of students and/or employees from the institution's program or activity.

If a Formal Complaint alleging Title IX Sexual Harassment is filed or initiated

1. The Title IX Coordinator or designee will, at a minimum:
 - a. Provide written notice to any known Title IX Complainant(s) and Title IX Respondent(s), including:
 - i. A copy or link to this Title IX Sexual Harassment Grievance Policy & Procedure;
 - ii. Notice of the allegations of Title IX Sexual Harassment in the formal complaint, including the identities of all known parties involved in the incident(s), the conduct allegedly constituting Title IX Sexual Harassment, the date and location of the alleged incident, and any other details necessary to prepare a response; such notice must be provided with sufficient time for the parties to prepare a response before any interview, which in no case shall be less than 24 hours;
 - iii. A statement that the Title IX Respondent is presumed not responsible

for the alleged conduct;

- iv. A statement that a determination regarding responsibility is made at the conclusion of the grievance process;
- v. Notice to the parties that they may have an advisor of choice who may be, but is not required to be, an attorney;
- vi. Notice to the parties that they may suggest witnesses and questions, provide evidence, and to fully inspect and review evidence obtained during the investigation.

- b. If at any time during the course of the investigation additional allegations of Title IX Sexual Harassment arise that will be investigated and that were not included in the written notice, the Title IX Coordinator or designee will, within 5 Business Days of the decision to add the allegations to the investigation, provide notice of the additional allegations as described above to the parties whose identities are then known.

Mandatory Dismissals: Within ten (10) Business Days of receiving a Formal Complaint filed by a Complainant, dismiss under this Title IX Sexual Harassment Grievance Policy & Procedure any allegation in the Formal Complaint that would not constitute Title IX Sexual Harassment, even if true; that did not occur in the University's education program or activity; or that did not occur against a person in the United States. Nothing precludes action on any dismissed allegations under another policy, procedure, or rule of the University. Upon such dismissal, the Title IX Coordinator or designee will send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

Identification of Investigator: Identify and document one or more qualified Title IX Investigator(s) who will investigate the Formal Complaint. The Title IX Investigator(s) will investigate the allegations of Title IX Sexual Harassment in a Formal Complaint.

Informal Resolution: Unless the Formal Complaint involves an allegation of sexual misconduct by a University employee against a student, the Title IX Investigator will, within ten (10) Business Days of assignment to the Formal Complaint, notify the Title IX Complainant and the Title IX Respondent of the option to complete informal resolution. The University will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of Formal Complaints of Title IX Sexual Harassment consistent with this policy & procedure. The University also will not require parties to participate in an informal resolution process under this policy & procedure and may not offer an informal resolution process unless a Formal Complaint is filed. However, at any time prior to reaching a determination regarding responsibility, the University may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the University:

- a. Provides to the parties a written notice disclosing:

- the allegations;
 - the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the Formal Complaint; and
 - any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- b. Obtains the parties' voluntary, written consent to the informal resolution process, and
 - c. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

If informal resolution is undertaken, the Title IX Coordinator or designee will assign an Informal Resolution Facilitator who will attempt to informally resolve the matter between the parties. During the informal resolution process, all timeframes under this Title IX Sexual Harassment Grievance Policy & Procedure will be tolled. If no resolution is reached within twenty (20) Business Days of commencement of the informal resolution, unless such 20-day time period is extended by agreement of the parties, or if the parties do not elect to engage in informal resolution, the Title IX Investigator(s) will recommence the investigation and the timeframes under this Title IX Sexual Harassment Grievance Policy & Procedure will recommence.

During the investigation of a Formal Complaint and throughout the Title IX Sexual Harassment Grievance Policy & Procedure, the Title IX Team must:

1. **Burdens:** Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the University and not on the parties, provided that the University cannot 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 the University obtains the voluntary, written consent to do so from that party.
2. **Equal Treatment – Evidence Presentation:** Provide an equal opportunity to the Complainant(s) and the Respondent(s) to present evidence in support of or in mitigation of their respective positions, including fact and expert witnesses. The

University will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

3. **Equal Treatment – Advisors:** Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of an advisor for either the Title IX Complainant or Title IX Respondent in any meeting or grievance proceeding; however, the University may establish restrictions regarding the extent to which the advisor may participate in the proceedings, if at all, as long as the restrictions apply equally to both parties. If a party does not have an advisor present at the live hearing, the University will provide an advisor of the University's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party. Complainant and Respondent will receive written notification of any meetings or interviews conducted by the Title IX Office related to the complaint.
4. **Written Notice of Meetings:** Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time for the party to prepare to participate.
5. **Equal Opportunity – Evidence Review:** Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the Title IX Investigator(s) must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 calendar days to submit a written response, which the Title IX Investigator(s) will consider prior to completion of the investigative report.
6. **Investigative Report:** Generally, within 90 Business Days of receipt of the Formal Complaint, the Title IX Investigator will create an investigative report that fairly summarizes relevant evidence and, at least 10 calendar days prior to a live hearing or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

The process used to investigate and resolve a Formal Complaint will also meet the following additional requirements:

1. The process used must treat Title IX Complainants and Title IX Respondents equitably in all manners, including by providing remedies to a Title IX Complainant

where a determination of responsibility for Title IX Sexual Harassment has been made against the Title IX Respondent, and by following this Grievance Process before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Title IX Respondent.

2. All members of the Title IX Team will operate under a presumption that the Title IX Respondent is not responsible for the alleged conduct described in the Formal Complaint until a determination regarding responsibility is made at the conclusion of the Title IX Sexual Harassment Grievance Policy & Procedure.
3. No information protected by a legally recognized privilege will be sought out or used by the school unless a party chooses to voluntarily waive such privilege. Such information includes but is not limited to attorney-client conversations and confidential medical information.
4. The Title IX Investigator and the Title IX Decisionmaker will objectively review all relevant evidence, including both inculpatory and exculpatory evidence, and credibility determinations will not be based on a person's status as a Title IX Complainant, Title IX Respondent, or Witness.
5. Remedies may include, but are not limited to, the same individualized services described as Supportive Measures in this policy & procedure but need not be non-disciplinary or non-punitive and need not avoid burdening the Title IX Respondent. Student discipline can involve a range of consequences, which may include, but are not limited to, Supportive Measures, a warning, recommendation for suspension and/or expulsion, depending on the severity of the action and circumstances of the student(s) involved. The full range of applicable sanctions is listed in Ave Maria University Student Handbook, the Ave Maria University Employee Handbook or the Ave Maria University Faculty Handbook. Discipline for employees also includes a range of options, including, but not limited to, a letter of reprimand, reassignment, suspension with or without pay, discharge or recommendation for discharge, notifying appropriate legal authorities and/or taking legal action against the employee.
6. The Title IX Coordinator or designee may consolidate Formal Complaints as to allegations of Title IX Sexual Harassment against more than one Title IX Respondent, or by more than one Title IX Complainant against one or more Title IX Respondents, or by one party against the other party, where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances.

After the investigation of a Formal Complaint, the Title IX Coordinator or designee and the Title IX Decisionmaker will comply with the following:

1. **Designation of Decisionmaker:** The Title IX Coordinator or designee will identify one or more Title IX Decisionmakers for the Formal Complaint, which cannot include the Title IX Coordinator or designee or the Title IX Investigator assigned to the Formal Complaint.
2. **Live Hearing:** A live hearing will be scheduled not less than ten (10) days after the

Title IX Investigator's report is sent to the parties for review. The live hearing will comply with the following requirements:

- a. The hearing will be conducted by a panel, comprised of University employees ("Title IX Decisionmakers"). The Title IX Decisionmakers shall be impartial and free from bias or conflict of interest. The parties will be informed of the identities of the Title IX Decisionmakers before the live hearing. If a Complainant or Respondent has concerns that one or more of the Title IX Decisionmakers cannot conduct a fair and unbiased hearing, they may report those concerns to the Title IX Office. The Title IX Office will assess the circumstances and determine whether a different Title IX Decisionmaker should be assigned.
- b. The hearing is an opportunity for the parties to address the Title IX Decisionmakers in person and to question the other party and/or witnesses. The live hearing is also an opportunity for the Title IX Decisionmakers to obtain additional information that is necessary to make a determination of whether a policy violation occurred.
- c. The Title IX Decisionmakers have broad discretion to establish rules for the live hearing, which may include, but are not limited to, governing decorum, setting time limits for opening and closing remarks, empowering the Title IX Decisionmaker to take a temporary recess, and any such other rules deemed prudent for the effective and efficient conduct of the live hearing; provided however, that any such rules must be consistent with this policy & procedure and must apply equally to the Title IX Complainant and Respondent.
- d. All live hearings will be held in person at a designated University location. Upon the request of either party, and at the University's discretion, a live hearing may be held via a remote meeting application. If held remotely, the parties will be placed in different rooms but will be able to see and hear each other through the use of an online meeting application or similar software.
- e. The live hearing is closed to the public. The Complainant and Respondent are allowed to have one advisor of their choice present throughout the hearing process. Parties will be notified in advance of the identities of those who will be in attendance or presenting witness testimony.
- f. An official audio recording or official transcription will be made of the live hearing. Parties are prohibited from making any audio or video recordings of any kind during the hearing, including cellphone recordings. No audio or video recording equipment will be permitted in the hearing rooms except as arranged by the Title IX Office.
- g. At the hearing, the Title IX Decisionmakers must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Only relevant cross-

examination and other questions may be asked of a party or witness. With respect to cross-examination:

- Cross-examination must be conducted by the party's advisor, and never by the party. If a party does not have an advisor present at the live hearing, the University will provide an advisor of the University's choice, without charge to the party, who may be, but is not required to be, an attorney to conduct cross-examination on behalf of the party.
- Questions and evidence about the Title IX Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Title IX Complainant's prior sexual behavior are offered to prove that someone other than the Title IX Respondent committed the conduct alleged by the Title IX Complainant, or if the questions and evidence concern specific incidents of the Title IX Complainant's prior sexual behavior with respect to the Title IX Respondent and are offered to prove Consent.
- The Title IX Decisionmaker must explain to the party proposing the questions any decision to exclude a question as not relevant. Cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by the party personally.

h. Complainant, Respondent, witnesses, and other individuals providing information to the decision-makers are expected to provide truthful information in any proceeding under this policy & procedure.

3. **Written Determination:** Within 20 Business Days of receipt of the final written responses and evidence from the parties, the Title IX Decisionmakers will issue a written report regarding the determination of responsibility. To reach this decision, the Title IX Decisionmakers will apply the clear and convincing evidence standard. The written determination shall include:

- a. Identification of the allegations potentially constituting Title IX Sexual Harassment;
- b. A description of the procedural steps taken 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 other evidence, and hearings held;
- c. The Title IX Decisionmakers' factual findings supporting the determination;
- d. A determination regarding the application of this Title IX Sexual Harassment Grievance Policy & Procedure to the facts;

- e. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University will impose on the Title IX Respondent, and whether remedies designed to restore or preserve equal access to the University's Education Program or Activity will be provided by the University to the Title IX Complainant; and
 - f. The University's procedures and permissible bases for the Title IX Complainant and Title IX Respondent to appeal.
4. **Notice of Written Determination:** The Title IX Decisionmaker(s) or designee will send the written determination simultaneously to the parties along with information about how to file an appeal.
5. **Appeal:** Both parties may appeal from either a determination regarding responsibility or from the University's dismissal of a Formal Complaint or any allegations therein, on the following bases:
- a. Procedural irregularity or error that affected the outcome of the matter;
 - b. New evidence or information that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - c. Claims that the Title IX Coordinator or designee, Investigator(s), or Decisionmaker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual Title IX Complainant or Title IX Respondent that affected the outcome of the matter; and/or
 - d. The sanction is disproportionate with the violation (applicable only to complaints of sexual violence, domestic violence, dating violence, and stalking).

A Title IX Complainant or Title IX Respondent who wishes to appeal must submit a notice of appeal to the Title IX Coordinator within 5 calendar days of the date of the Title IX Decisionmaker(s)' decision. An appeal may be filed by email, mail, or hand delivery to the Title IX Coordinator. If delivered by mail, the notice of appeal must be postmarked by the 5th calendar day after the date of the Title IX Decisionmaker(s)' decision.

Upon receipt of an appeal

- 1. The Title IX Coordinator or designee must do the following:
 - a. Within 5 Business Days of receipt of the appeal, notify the other party in writing that an appeal was filed.
 - b. Implement appeal procedures equally for both parties.

- c. Ensure that the Appellate Decisionmaker(s) are not the same person(s) as the Title IX Decisionmaker(s) that reached the determination regarding responsibility or dismissal, the Title IX Investigator(s) assigned to the formal complaint, or the Title IX Coordinator or designee.
 - d. Ensure that the Title IX Appellate Decisionmaker(s) complies/comply with the standards set forth in this policy & procedure for appeals.
- 2. The Title IX Appellate Decisionmaker(s) must do the following:
 - a. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
 - b. Issue a written decision describing the result of the appeal and the rationale for the result within 30 Business Days of receipt of the notice of appeal.
 - c. Provide the written decision on appeal simultaneously to both parties.

If an appeal is successful, the Title IX Coordinator or designee will remand the matter back to the appropriate member of the Title IX Team to remedy the concern. A determination regarding responsibility becomes final on the date that (1) if an appeal is filed, the Title IX Appellate Decisionmaker or designee provides the parties with the written determination of the result of the appeal upholding the determination; or (2) if an appeal is not filed, the date on which an appeal would no longer be considered timely. The Title IX Coordinator or designee is responsible for effective implementation of any remedies.

After the conclusion of the Title IX Sexual Harassment Grievance Policy & Procedure, the University or the parties may exercise any rights ancillary to this Title IX process as necessary, e.g. disciplinary processes for suspensions or expulsions of students; tenured faculty dismissal proceedings; any other pre-remedy process required by any applicable law, agreement, policy, or contract; etc.

Confidentiality

The University may disclose information regarding any individual who has made a report or complaint of sexual discrimination, including Title IX Sexual Harassment; any person who has filed a Formal Complaint of sexual harassment; any Title IX Complainant; any individual who has been reported to be the perpetrator of sex discrimination; any Title IX Respondent; and any witness as required by law or as needed to conduct any investigation, hearing, or judicial proceeding arising under this Title IX Sexual Harassment Grievance Policy & Procedure. The University will only disclose information to the extent required to comply with relevant law or to conduct an investigation, hearing, or proceeding arising under this Title IX Sexual Harassment Grievance Policy & Procedure and will otherwise keep such information confidential to the extent practicable.

Retaliation Prohibited

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the State or federal Constitution, State or federal statute, the University policy, this Title IX Sexual Harassment Grievance Policy & Procedure, 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 Title IX Sexual Harassment Grievance Policy & Procedure.

Charging an individual with a code of conduct violation for knowingly making a materially false statement or knowingly providing false information in the course of an investigation under this Title IX Sexual Harassment Grievance Policy & Procedure is not prohibited retaliation; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement or knowingly provided false information. Complaints alleging retaliation may be filed under the Ave Maria University Student Handbook, the Ave Maria University Employee Handbook, or the Ave Maria University Faculty Handbook.

Required Title IX Training

Any person serving as a Title IX Coordinator or designee, Title IX Investigator, Title IX Decisionmaker, Title IX Appellate Decisionmaker, or Title IX Informal Resolution Facilitator, as those terms are defined by this Title IX Sexual Harassment Grievance Policy & Procedure, will be trained regarding the definition of Title IX Sexual Harassment, the scope of the University's Education Program or Activity, how to conduct this Title IX Sexual Harassment Grievance Policy & Procedure, including appeals and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Any person serving as a Title IX Appellate Decisionmaker or Title IX Decisionmaker under this Title IX Sexual Harassment Grievance Policy & Procedure will receive training on the issues of relevance of questions and evidence, including when questions and evidence about the Title IX Complainant's sexual predisposition or prior sexual behavior are not relevant.

Any person serving as a Title IX Investigator under this Title IX Sexual Harassment Grievance Policy & Procedure will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Title IX Coordinators, their designees, Title IX Investigators, Title IX Decisionmakers, Title IX Appellate Decisionmakers, and Title IX Informal Resolution Facilitators must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Title IX Sexual Harassment. The University will make all materials used to train Title IX Team members publicly available on its website.

Required Title IX Recordkeeping

The Title IX Coordinator or designee will maintain, for a period of at least 7 years, records of:

- Any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Title IX Sexual Harassment. In each instance, the Title IX Coordinator or designee must document the basis for the conclusion that the University's response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's Education Program or Activity. If no Supportive Measures are provided to the Title IX Complainant, then the Title IX Coordinator or designee must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken;
- Each Title IX Sexual Harassment investigation, including any determination regarding responsibility and any disciplinary sanctions imposed on the Title IX Respondent, and any remedies provided to the Title IX Complainant designed to restore or preserve equal access to the University's Education Program or Activity;
- Any appeal and the result therefrom;
- Any informal resolution and the result therefrom; and
- All materials used to train Title IX Coordinators, their designees, Title IX Investigators, Title IX Decisionmakers, Title IX Appellate Decisionmakers, and Title IX Informal Resolution Facilitators.

Right to Pursue Other Remedies Not Impaired

The right of a person to resolve a report or complaint under this policy & procedure shall not be impaired by the person's pursuit of other remedies, such as criminal complaints, civil actions, etc. Use of this policy & procedure are not a prerequisite to the pursuit of other remedies and may not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy & procedure, the University will conduct its own investigation; although in some cases, delays due to another process may be warranted or required.

Deadlines

All timeframes under this Title IX Sexual Harassment Grievance Policy & Procedure may be temporarily extended for good cause by Title IX Coordinator or a designee. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; the need for language assistance or accommodation of disability; and other circumstances outside of the institution's control. The Title IX Coordinator or a designee shall notify the parties in writing when a timeframe is extended.

Additional Information

Inquiries about this Title IX Sexual Harassment Grievance Policy & Procedure may be directed to the Title IX Coordinator or the United States Office for Civil Rights (contact information available online at: <https://www2.ed.gov/about/offices/list/ocr/addresses.html>).

Other Procedures

To the extent that they do not conflict with any requirements of this Title IX Sexual Harassment Grievance Policy & Procedure and are implemented equally and fairly as to the parties, the Title IX Team may use processes from the University sexual harassment and sexual misconduct processes outlined in this Policy & Procedure when processing Title IX Sexual Harassment reports and complaints. If the University intends to use any such processes in addressing Title IX Sexual Harassment reports or complaints, the Title IX Coordinator or designee will make available written administrative procedures supplementing this Title IX Sexual Harassment Grievance Policy & Procedure and detailing the additional procedures to be used.

Resources

1. Reporting an Incident

Title IX Coordinator: TitleIXCoordinator@avemaria.edu 239-304-7894

The University's Title IX Coordinator is the designated agent of the University with primary responsibility for overseeing Title IX compliance efforts. The Title IX Coordinator serves as a primary point of contact for those seeking information or wanting to report potential Title IX Sexual Harassment.

AMU Security Department: 239-280-6289

AMU Security is available 24 hours a day, 7 days a week. AMU Security may contact the Collier County Sheriff's Office or other local law enforcement agencies, as appropriate. AMU Security will also notify the AMU Title IX Coordinator as well as the Office of Student Affairs.

Collier County Sheriff's Office Emergency: 911, 8-911(from a campus phone), or 239-252-9300

Project HELP: 239-262-7227.

Project HELP (www.projecthelpnaples.org) is a local non-profit organization, not affiliated with the University, staffed by professional counselors and advocates committed to providing assistance to those affected by sexual violence. Project HELP maintains a 24/7 Crisis and Referral Hotline (239-262-7227) and is the local state certified Rape Crisis Center. Project HELP provides free counseling and advocacy services, and staffs a Sexual Assault Response Team (SART) which includes a Sexual Assault Nurse Examiner (SANE).

2. Emergency Medical Care

Immediate emergency medical care is available through the Collier County Emergency Medical Services system (dial 911).

Collier County EMS: Dial 911

The nearest hospitals to Ave Maria University are:

NCH North Naples Hospital
11190 Health Park Boulevard
Naples, Fl 34110
239-624-5000

Physicians Regional - Pine Ridge
6101 Pine Ridge Road
Naples, Fl 34119
239-348-4000

Physicians Regional - Collier Boulevard
8300 Collier Boulevard
Naples, FL 34114
239-354-6000

NCH Downtown Naples Hospital
350 7th St. N.
Naples, FL 34102
239-436-5000

Ave Maria University Security, residence hall directors and/or staff from Student Affairs (239-280-2540) can assist students who need transportation or would like to be accompanied to any of these off-campus medical resources.

3. Medical, Counseling, & Pastoral Care Resources

Besides immediate emergency care, ongoing care is also critically important. Students are encouraged to make use of the following resources. All of the resources described below are available to students regardless of whether or not a Formal Complaint of Title IX Sexual Harassment is filed.

- a. **The University Counselor:** Students needing confidential counseling services should contact the University Counselor, Nestor Levesgue, a trained professional who can provide specialized support and assistance to students. Students may seek counseling at any time.

- b. **Project HELP, 239-262-7227:** Project **HELP** can also provide ongoing counseling and support services.
- c. **Campus Ministry, 239-280-2518, chaplain@avemaria.edu:** The Campus Ministry staff is trained to provide pastoral counseling and support to students or to friends who wish to support and assist them.
- d. **The On-Call Residence Director, 239-280-7344:** The on-call Residence Hall Director can also provide assistance in obtaining counseling and pastoral guidance and support.

Preventing Sexual Harassment

The University's harassment prevention efforts are coordinated through the Office of Student Affairs' Title IX Office. Through collaborative efforts with other University departments and outside agencies, Student Affairs works to prevent sexual harassment through annual awareness seminars, education, and the promotion of a caring community, and skill building. Programs include self-defense workshops, educational seminars, advocacy and volunteer opportunities, resource and referral information, and Love Week.