

# University of Dallas Policy CRI-I

## CIVIL RIGHTS PROCEDURE – INVESTIGATION OF FORMAL COMPLAINTS

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1. **Purpose** – This Procedure provides the exclusive process for investigating Formal Complaints of violations of the University Civil Rights Policy, including, but not limited to, Non -Title IX Sexual Harassment, Title IX Sexual Harassment, Sexual Assault, Dating Violence and Stalking.
2. **Definitions** – Relevant terms for implementation of this Procedure are set forth in University Policy CRT – Civil Rights Policy – Relevant Terms.
3. **Initial Response to a Formal Complaint** – Upon receiving a Formal Complaint alleging a violation of the University Civil Rights Policy, the Civil Rights Coordinator will initiate the investigation process.
  - 3.1.** The Civil Rights Coordinator will assign an Investigator to conduct an investigation and prepare a formal written report regarding the incident.
    - 3.1.1. The Civil Rights Coordinator may be the Investigator.
    - 3.1.2. The Civil Rights Coordinator and the Investigator may assign additional persons to assist in the investigation.
    - 3.1.3. If a Complainant requests that no investigation be conducted, the Civil Rights Coordinator will evaluate whether the request may be granted, in accordance with University Policy CRR.
  - 3.2.** If a party believes that the Investigator should be replaced because the Investigator has a conflict of interest or is biased for or against

- 4.1.1. The notice must include sufficient details known at the time and provide the Respondent with sufficient time to prepare a response before any initial interview.
  - 4.1.1.1. Sufficient details include (1) the identities of the parties involved in the incident, if known, (2) the conduct allegedly constituting Prohibited Conduct, and the date and location of the alleged incident, if known.
  - 4.1.1.2. The notice must include 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 investigation and hearing process.
  - 4.1.1.3. The notice must include a statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
  - 4.1.1.4. The notice must include a statement that the parties will be provided with 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.
  - 4.1.1.5. The notice must include a statement that the University's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the investigation and hearing process.

**4.2. Amending Notice** – If, in the course of an investigation, the Investigator decides to investigate allegations about the Complainant or Respondent that are not included in the notice of investigation, the Investigator must provide notice of the additional allegations to the parties whose identities are known.

**4.4. Time Frame** – The investigation and hearing of a Formal Complaint, or resolution through informal resolution, will be concluded within a reasonable period of time.

4.4.1. Most investigations and hearings, or informal resolution, as applicable, will be completed within ninety (90) from the notice of investigation. The investigation or hearing may be delayed or the deadline extended for good cause with written notice of the delay or extension and the reasons for the action to the Complainant and Respondent.

4.4.1.1. Good cause may include, but is not limited to, considerations such as the absence of a party, a party's Advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodations of disabilities.

**4.5. Conduct of Investigation** – When investigating a Formal Complaint, the University must:

4.5.1. **Burden** – Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not on the parties.

4.5.1.1. The Investigator will attempt to interview the Complainant, the Respondent, and any witnesses as appropriate.

4.5.1.2. The Investigator will gather any other information considered to be relevant, and will also review any information submitted by the Complainant, the Respondent and/or any witnesses.

4.5.1.3. 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 party's voluntary, written consent to do so for the investigation and hearing process.

4.5.2. **Evidence** – The parties must have an equal opportunity to provide and review relevant evidence. That is, the University must:





- 5.1.3. Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein;
- 5.1.4. At the time of filing the formal complaint, the Complainant is not participating in or attempting to participate in the education program or activity of the University; or
- 5.1.5. The Civil Rights Coordinator concludes that the Formal Complaint, or some of the allegations therein, does not constitute a violation of the University Civil Rights Policy.
- 5.1.6. **Mandatory Dismissal under Title IX Regulations** – Certain allegations must be dismissed under Title IX regulations, but may still constitute actionable violations of University policy, including the Civil Rights Policy. See Section 6.0 of this Procedure.

**5.2. Reopening** – An investigation that is dismissed may be reopened if circumstances change or new information becomes available.

**5.3. Notice of Dismissal** – Upon dismissal, the Investigator must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

**6. Mandatory Dismissal Under Title IX Regulations** – The administrative regulations implementing Title IX require dismissal under certain circumstances. However, if the mandatory dismissal requirement applies, the University is not precluded from taking action under the University’s policies or codes of conduct. (see 34 C.F.R. §106.45(b)(3)).

**6.1.** When notifying parties of a mandatory dismissal under the Title IX regulations, the Investigator will make clear whether investigation of the Formal Complaint is proceeding and, if so, under the Civil Rights Policy or other policy or code of the University. This may include, but is not limited to, allegations of Non-Title IX Sexual Harassment in violation of the Civil Rights Policy that are not encompassed under the Title IX regulations.

**6.2. Definitions for this Section** – The following definitions apply to this section of this Procedure:

6.2.1. **“A person in the United States”** means incidents of Sexual Harassment under Title IX that occur against persons in the United States. It does not include incidents occurring against persons outside the United States.

6.2.2. **“Education Program or Activity under Title IX”** includes locations, events, or circumstances over which the University

