



Comprehensive Grievance Procedure for Title IX Compliance

2020-2021

Mission of Anderson University: Anderson University is an academic community, affiliated with the South Carolina Baptist Convention, providing a challenging education grounded in the liberal arts, enhanced by professional and graduate program and a co-curricular focus on the development of character, servant leadership, and cultural engagement. This is a diverse community that is Christ-centered, people-focused, student-oriented, quality-driven, and future-directed.

Purpose of this Policy: To eliminate barriers for members of the Anderson University community caused by harassment or discrimination based on sex or gender.

Mission of the Anderson University Title IX Office: To ensure equity based on sex and gender for all members of the Anderson University community through education, policy and procedures that fully comply with Title IX of the Higher Education Act of 1972 and related laws and University policies.

Questions Regarding this Policy: Please forward questions regarding compliance with this policy to:

Dr. L. Dianne King
Title IX/504 Grievance Coordinator
Associate Vice President for Student Development
Thrift Library, Office 203
Office: 864.231.2026
ldking@andersonuniversity.edu

Policy

Note: Due to changes that may come through legislation and court decisions, this policy is subject to updates and may be changed during the academic year. Students and employees are encouraged to review this policy periodically to remain current.

Anderson University maintains the following policy on sex discrimination and sexual harassment in compliance with Title IX of the Education Amendments of 1972 and the Title IX regulations in 34 CFR Part 106. The University provides notice of this policy to applicants for admission and employment, to students, and to employees, to the extent required by law.

Discrimination on the Basis of Sex

Anderson University does not unlawfully discriminate in its programs and activities on the basis of sex and complies with state and federal laws prohibiting sex discrimination. As a Christ-centered institution of higher learning, the University exercises its rights under state and federal law to use religion as a factor in making employment decisions.

Some regulations issued under Title IX relating to discrimination on the basis of sex are not consistent with the University's religious tenets and do not apply to the University (34 CFR § 106.12(a)). In addition, under Title IX, certain exceptions may apply for undergraduate admissions.

Questions or inquiries about the application of Title IX and the Title IX regulations to the University's programs and activities may be addressed to the University's Title IX Coordinator, to the Assistant Secretary of the Department of Education, or both.

Reporting Sexual Harassment, Sexual Assault, or other Sex Discrimination

Title IX Coordinators

Anderson University has designated and authorized the following employees to coordinate its efforts to comply with its policies to prevent sexual harassment and discrimination:

Dr. L. Dianne King
Associate Vice President for Student Development
Dean of Student Success
Office: Thrift Library, Office 203
Mail: 316 Boulevard, Anderson, SC 29621
ldking@andersonuniversity.edu
864.231.2026

In addition to the Title IX Coordinator, the University has also appointed the following Deputy Coordinators to assist in compliance with these policies:

Deputy Coordinators

Ms. Amy Porpilia
▪ Director of Human Resources and Title VII Grievance Coordinator
Mr. Matt Finley

- Associate Athletic Director for Compliance

Dr. Bob Hanley

- Vice Provost and Professor of English

Ms. Ann Themistocleous

- Director of the Center for Global Engagement

Ms. Robyn Sanderson

- Associate Vice President for Student Development (on call)

A complainant may also contact the Department of Education, Office for Civil Rights, as indicated below:

U. S. Department of Education
Office for Civil Rights
District of Columbia Office
400 Maryland Ave., SW
Washington, DC 20202-1328
Telephone: (202) 453-6020
Email: OCR.DC@ed.gov

Emergency Report

If you witness or experience any emergency involving sexual assault or any other crime of violence, or if you have immediate safety concerns, first call 911, then call Campus Safety at 864.231.2060.

How to Report. Any person may report a grievance relating to sex discrimination, including Sexual Harassment, whether or not the person reporting is the person who may be the victim of conduct being reported. A report may be made:

- in person during normal business hours;
- at any time during or outside of normal business hours by mail, telephone, or email; or
- at any time using any other means that results in the Title IX Coordinator receiving the verbal or written report.

Definitions

The following words in this policy, when capitalized, mean the following:

Complainant: an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

Consent: South Carolina does not specifically define “consent.” A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:(a) The actor uses aggravated force to accomplish sexual battery;(b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act; or (c) The actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance. S.C. Code Ann. § 16-3-652.

“Aggravated force” means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon. S.C. Code Ann. §16-3-651(c). A person is guilty of criminal sexual conduct in the second degree if the actor uses aggravated coercion to accomplish sexual battery. S.C. Code Ann. § 16-3-653(1). “Aggravated coercion” means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person. S.C. Code Ann. § 16-3-651(b). A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven: (a) The actor uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances; or (b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery. S.C. Code Ann. § 16-3-654. “Mentally defective” means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct. S.C. Code Ann. §16-3-651(e). “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause. S.C. Code Ann. § 16-3-651(f). “Physically helpless” means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act. S.C. Code Ann. § 16-3-651(g).

From these state crime definitions, we may extrapolate the following about consent:

- A person has not consented if that person is forced into sexual behavior;
- A person has not consented if that person believes that the other person(s) is/are able to carry out a threat or retaliate against them or someone else;
- A person has not consented if that person has been coerced;
- A person who is either temporarily or permanently incapable of understanding the nature of their conduct cannot consent;
- A person who is mentally incapacitated, whether due to illness, the influence of alcohol or some other substance, or some other cause, cannot consent;
- A person who is unconscious, asleep, or otherwise physically helpless and unable to communicate their unwillingness to act cannot give consent.

In short, consent must be clearly given, free of anything that might cause that person to do something they may not otherwise do.

Dating Violence: 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 following factors:
 - a. the length of the relationship
 - b. the type of relationship
 - c. the frequency of interaction between the persons involved in the relationship

Decision-maker: the person or persons designated by the University to conduct the Hearing and make a

determination on the allegations in a Formal Complaint. No Decision-maker will be a Title IX Coordinator or the Investigator of the case being heard.

Document: a document or electronic submission (such as by email) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

Domestic Violence: felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of South Carolina, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of South Carolina.

Education Program or Activity: a location, event, or circumstance over which the University exercises (or, during the relevant time, exercised) substantial control over both the Respondent and the context in which the Sexual Harassment occurs, including any building owned or controlled by a student organization that is officially recognized by the University.

Facilitator: A person who serves to facilitate an informal resolution of a Formal Complaint through mediation, restorative justice, or a similar process.

Formal Complaint: A document which:

1. Is filed by a Complainant or signed by the Title IX Coordinator; and
2. If filed by the Complainant, he or she is participating in or attempting to participate in the University's Education Program; and
3. Alleges Sexual Harassment against a Respondent; and
4. Requests that the University investigate.

Hearing: The live hearing before a Decision-maker for the purpose of presenting evidence regarding the allegations in a Formal Complaint and allowing for questioning and cross-examination of Parties and witnesses by the Parties' advisors, all in order that the Decision-maker can determine responsibility.

Investigative Report: The written report created by the Investigator that fairly summarizes all relevant evidence obtained during the investigation of a Formal Complaint.

Investigator: The person designated by the University to investigate a Formal Complaint. If more than one person is designated, this term refers to all the investigators.

Party: Either the Complainant or the Respondent.

Parties: All Complainants and all Respondents with respect to a complaint of Sexual Harassment or with respect to multiple Formal Complaints which have been consolidated.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

Sexual Assault: An offense classified as a forcible or non-forcible sex offense under the Uniform Crime Reporting System of the Federal Bureau of Investigation, including: forcible or statutory rape; forcible

sodomy; sexual assault with an object; forcible fondling; and incest.

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

1. A University employee conditioning the provision of a University aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
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 the University's Education Program or Activity; or
3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

Stalking: 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.

Supportive Measures: non-disciplinary, non-punitive individualized services offered to the Complainant or the Respondent (or one who may become a Respondent) before or after the filing of a Formal Complaint or where no Formal Complaint has been filed.

Response to Sexual Harassment (With or Without a Formal Complaint)

Whenever the University has actual knowledge of Sexual Harassment in an Education Program or Activity, the Title IX Coordinator is responsible for coordinating a University response that is prompt and reasonable in light of the known circumstances and includes the following:

1. Treating Complainants and Respondents equitably;
2. Promptly contacting the Complainant to discuss the availability of Supportive Measures;
3. Offering Supportive Measures to the Complainant whether or not the Complainant files a Formal Complaint;
4. Considering the Complainant's wishes with respect to Supportive Measures;
5. Explaining to the Complainant the process for filing a Formal Complaint; and
6. Following the University's grievance procedure before the imposition of any disciplinary sanctions or other actions that are not Supportive Measures against a Respondent.

The University will provide students or employees who report being victims of Dating Violence, Domestic Violence, Sexual Assault or Stalking with a written explanation of their rights and options, regardless of whether the offense occurred on campus. The explanation will include written notification of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims (within the University and in the community), and the availability of changes to academic, living, transportation, and working situations, or Supportive Measures regardless of whether the student or employee files a Formal Complaint or makes a report to law enforcement.

Supportive Measures

The University will offer Supportive Measures as appropriate, as reasonably available, and without fee or

charge to the Complainant, the Respondent, or a person who may become a Respondent before or after the filing of a Formal Complaint, including where no Formal Complaint has been filed. Supportive 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, or deter sexual harassment.

The following are examples of Supportive Measures the University may make available, but other similar measures may also be provided:

1. Additional excused absences from classes or leaves of absence
2. Extensions of deadlines or other course-related adjustments
3. Academic support services, such as free tutoring
4. Providing an escort to move safely between classes and activities
5. Providing parking closer to residence or classes
6. Modifications of work or class schedules
7. Mutual no-contact orders (prohibiting contact with another Party in person or by phone, email, text message, social network, or other means, including a third person)
8. Adjustments to campus housing assignments
9. Adjustments to campus work assignments
10. Counseling services
11. Increased security and monitoring of certain areas of the campus

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

Confidentiality

The University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures.

Emergency Removal from the University

The University may place a non-student employee Respondent on administrative leave during the pendency of the grievance procedure. The University may remove any Respondent from the University's Education Program or Activity on an emergency basis providing:

1. The University conducts an individualized safety and risk analysis;
2. As a result of the analysis, the University 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 of the Respondent; and
3. The University provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

This provision for administrative leave or emergency removal does not modify any of the Respondent's rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act.

Process for Formal Complaints of Sexual Harassment

General Provisions

The University will:

1. Treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for Sexual Harassment has been made against the Respondent.
2. Presume that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance procedure.
3. Follow this grievance procedure before the imposition against the Respondent of any disciplinary sanctions or other actions that are not Supportive Measures.
4. Provide any Party whose participation is invited or expected written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Party to prepare to participate.
5. Design remedies to restore or preserve equal access to the University's Education Program or Activity. Remedies may include the same individualized services described as Supportive Measures. However, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.
6. Require all persons who serve as the Title IX Coordinator, Investigator, Decision-maker, Appeal Decision-maker, or Facilitator not to have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
7. Ensure that Title IX Coordinators, investigators, decision-makers, and Facilitators receive appropriate training. Part of the training will include how to serve impartially and avoid prejudgment of the facts, conflicts of interest, and bias.
8. Apply the preponderance of the evidence standard in making determinations with respect to all Formal Complaints, whether against students, faculty, or non-faculty employees.

Notice of Allegations

Upon receiving a Formal Complaint, the University will provide all known parties written notice that includes at least the following:

- The University's grievance procedure, including any informal resolution process.
- All allegations which may constitute Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting Sexual Harassment, and the date and location of the alleged incident, 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 procedure.
- A statement that the Parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that the Parties may inspect and review evidence.
- A statement that the University's code of conduct prohibits any student or employee knowingly making false statements or knowingly submitting false information during the grievance procedure.

If, in the course of an investigation, the University decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice, the University will provide notice of the additional allegations to Parties whose identities are known.

Dismissing a Formal Complaint

If the conduct alleged in the Formal Complaint 1) would not constitute Sexual Harassment even if proven, 2) did not occur in an Education Program or Activity, or 3) did not occur against a person in the United States, then the University must dismiss the Formal Complaint as a complaint of Sexual Harassment under Title IX or this grievance procedure. However, the University may separately adjudicate allegations of conduct which would violate other provisions of the University's code of conduct. Specifically, if a student or employee experiences sexual harassment from another student or employee during the course of an AU Study Abroad trip, mission trip, or similar experience outside the United States, that may be dealt with through a non-Title IX process. Please contact the Title IX Coordinator for information on reporting such occurrences.

The University may dismiss all or part of a Formal Complaint if at any time during the investigation or hearing:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations in it;
- The Respondent is no longer enrolled or employed by the University; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations in it.

If all or part of a Formal Complaint is dismissed, the University must promptly and simultaneously send written notice of the dismissal and reason(s) for it to the Parties.

Consolidating Formal Complaints

The University may consolidate Formal Complaints:

- As to allegations of Sexual Harassment against more than one Respondent; or
- By more than one Complainant against one or more Respondents; or
- By one Party against the other Party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

Where a grievance procedure involves more than one Complainant or more than one Respondent, singular references to "Party," "Complainant," or "Respondent" include the plural, as applicable.

Advisors

Designated Advisors and University-Appointed Advisors

A Party may designate an advisor of his or her choice, and the advisor may be an attorney. The University will not limit the choice or presence of an advisor for either a Complainant or a Respondent in any meeting or grievance proceeding.

The University will appoint an advisor for any Party who does not have one present in the Hearing. University-appointed advisors serve at no cost to a Party. However, advisors appointed by the University serve for the limited purpose of conducting cross-examination at the Hearing. University-appointed advisors are not required to be attorneys or have a level of competency comparable to that of another

Party's designated advisor. An advisor is not required to perform any function beyond relaying a Party's desired questions to the other Party and witnesses.

A Party may find that having an advisor is helpful throughout the grievance procedure and not just at the Hearing. Both Parties are encouraged to designate an advisor.

Because the University is required to provide certain information to a Party's advisor, each Party must notify the Title IX Coordinator in writing if he or she has designated an advisor. A Party may obtain an advisor or change the identity of the Party's advisor at any time.

Rules for Advisors

Except during a Hearing, the role of the advisor is limited to providing support, guidance, or advice to the Complainant or Respondent throughout the grievance procedure. The following rules apply to all advisors, including advisors appointed by the University:

1. Advisors are not to answer questions posed directly to any Party or witness, nor otherwise interfere with questioning by the Investigator. An advisor may request reasonable opportunities to confer with the Party being advised.
2. During meetings, a Party and the advisor may talk quietly with each other.
3. Advisors do not have the right to question witnesses except in a Hearing.
4. Advisors may not present opening statements, closing statements, or arguments.
5. Advisors **may not** disclose to other persons any confidential student information which is disclosed to the advisor in the course of the grievance procedure.
6. Advisors must act in a respectful manner at all times; bullying, yelling, and abusive conduct are never permitted.
7. Parties and advisors must not disturb the Hearing or any other proceeding by loudly conferring with one another.
8. Advisors must comply with the decisions and directions of the Decision-maker.

If a Party's advisor (whether designated by the Party or appointed by the University) refuses to comply with these rules, including rules relating to decorum, the University may require the Party to designate a different advisor or, if no other advisor is designated, to accept an advisor appointed by the University to conduct cross-examination on behalf of the Party. The University may remove from any proceeding advisors who become disruptive or who do not abide by the restrictions on their participation.

Informal Resolution

At any time after a Formal Complaint has been filed but before reaching a determination regarding responsibility, the University may facilitate an informal resolution process (such as mediation or restorative justice) that does not involve a full investigation and adjudication. Before the University and the Parties can proceed with an informal resolution the University must notify the Parties in writing disclosing:

1. The allegations;
2. 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;
3. 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 procedure with respect to the Formal Complaint; and

4. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The University must obtain the Parties' voluntary, written consent to proceed with an informal resolution process. The formal procedures for resolving a Formal Complaint will normally be suspended during the informal resolution process. If the informal process produces a resolution that is agreed upon by the Parties in writing, the grievance procedure shall end, and no investigation or Hearing shall occur.

The University:

- May not require any person to waive the right to an investigation and adjudication of a Formal Complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right;
- May not require the Parties to participate in an informal resolution process;
- May not offer an informal resolution process unless a Formal Complaint has been filed; and
- May not offer or facilitate an informal resolution process to resolve allegations that an employee engaged in Sexual Harassment against a student.

Investigating Formal Complaints

Anderson University's Responsibilities

The University will designate one or more investigators to investigate the allegations in the Formal Complaint. 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. The University shall not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege unless the person holding such privilege has waived it. If the Investigator makes any determinations regarding credibility, those determinations may not be based on a person's status as a Complainant, Respondent, or witness.

The University may restrict who can be present during any meeting or proceeding related to the grievance procedure, including meetings or interviews conducted by the Investigator. However, both the Complainant and the Respondent will have the same opportunities to have others present during any grievance proceeding.

Concurrent Policy Violations

A student may feel hesitant to report an incident of sexual misconduct because they fear that their own conduct, for instance, the use of alcohol or drugs by themselves or others, may result in their being disciplined for those actions.

The focus of the University in matters related to sexual harassment and misconduct is always on that reported behavior, not on ancillary policy violations, such as alcohol or drugs. Harassment/sexual misconduct will always be the primary focus of this kind of investigation and adjudication, and the University will not take disciplinary action toward students involved in sexual misconduct cases regarding these secondary behaviors. Depending on the situation, however, the University may institute educational discussions and interventions for the well-being of the student.

Equal Opportunity to Present and Review Evidence

In the course of the investigation, all Parties have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The University does not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

Before completing the Investigative Report, the Investigator will send to each Party and the Party's advisor, if any, all the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including

1. Evidence upon which the University does not intend to rely in reaching a determination regarding responsibility; and
2. Inculpatory or exculpatory evidence, whether obtained from a Party or another source.

The evidence will be subject to inspection and review by both Parties and may be provided in an electronic format, a hard copy, or a mixture of both. Each Party will have at least ten (**10**) calendar days to submit a written response to the evidence. This written response shall be the Party's final opportunity to identify and present witnesses and other inculpatory and exculpatory evidence.

If the Investigator finds that Party has provided new evidence (including witnesses) that is directly related to the allegations, the Investigator will provide the new evidence to both Parties and permit an additional ten (**10**) calendar days for each Party to respond to the new evidence. The Investigator will consider the Parties' written responses to the evidence before completing the Investigative Report.

Medical and Treatment Records

In gathering evidence, except with the Party's voluntary, written consent, 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
- Made and maintained in connection with the provision of treatment to the Party.

The Investigation Report

After the time for a Party's written response to the evidence has expired, the Investigator will create an Investigative Report that fairly summarizes all the relevant evidence gathered in the course of the investigation.

At least ten (10) calendar days prior to the Hearing, the Investigator will send each Party and each Party's advisor a copy of the Investigative Report in an electronic format or a hard copy. A Party or a Party's advisor may make a written response to the Investigative Report by providing a copy to the Investigator and the Title IX Coordinator **no later than noon** of the last business day before the day of the Hearing. The Title IX Coordinator will provide a Party's written response, if any, to the other Party. A copy of the Investigative Report and all written responses by the Parties will be provided to the Decision-maker prior to the Hearing.

Pre-Hearing Procedures

When Hearings Are Required

A live hearing must be held with respect to a Formal Complaint unless:

- The Formal Complaint has been dismissed;
- The facts alleged in a Formal Complaint are not contested;
- The Respondent has admitted, or wishes to admit, responsibility; or
- The Parties want to resolve the case through an informal resolution process without a completed investigation or adjudication.

The Parties cannot waive a hearing except by agreement to use the University's informal resolution process.

Preparing for the Hearing

At least 12 calendar days before the Hearing, the University will notify each Party and advisor in writing of the date, time, location, and participants for the Hearing, including the name of each witness whom the University will request to appear at the Hearing (in person or virtually) for the purpose of providing evidence. The Hearing may be conducted with all participants physically present in the same location or, at the University's discretion, any or all Parties, witnesses, and other participants may appear virtually, with technology enabling participants simultaneously to see and hear each other.

Requesting Separate Rooms

At the request of either Party, the University will provide for the Hearing to occur with the Parties located in separate rooms using technology enabling the Decision-maker and Parties to simultaneously see and hear the Party or the witness answering questions. In order to have sufficient time to make the appropriate arrangements, a Party's request to be in a separate room must be made in writing to the Title IX Coordinator at least two (2) business days before the Hearing.

Attendance by Advisors

If a Party does not have an advisor present at the Hearing, the University must provide the Party an advisor of the University's choice without fee or charge to that Party. Unless the University grants a delay for good cause shown, the University shall appoint an advisor for a Party whose designated advisor is absent from the Hearing. The advisor is not required to be an attorney and shall be responsible to conduct cross-examination on behalf of that Party.

Attendance of Parties and Witnesses; Delay for Absent Witness

The University is prohibited by law from requiring any Party or witness to appear at the Hearing, or from engaging in any act that would intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, grievance proceeding, or Hearing.

For these reasons, the University is not responsible if a Party or witness fails to appear at the Hearing, and the Hearing may proceed in the absence of the Party or witness. The University may grant a Party's reasonable request to delay the Hearing if that Party or an important witness is unable to attend the Hearing. A request for a delay should be made *as soon as possible* in the manner described below in the section of this grievance procedure entitled "Temporary Delays or Extensions."

Hearing

Convening the Hearing

The Decision-maker shall convene the Hearing at the appointed time. In order to maintain students' privacy as much as possible, witnesses will not be in the Hearing room or attending by technological means except when providing evidence or being cross-examined. Parties and witnesses will not be "sworn in," but will be reminded that providing false information in connection with the Hearing is a violation of the University's code of conduct for students or expectations for employees.

Questioning Parties and Witnesses

Each Party's advisor will be given an opportunity to ask the other Party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility. Such cross-examination must be conducted directly, orally, and in real time by the Party's advisor, and never by a Party personally.

Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-maker may ask both advisors to provide reasons why a question should or should not be considered relevant. The Decision-maker will instruct all Parties and witnesses not to answer any question until the Decision-maker has allowed the question.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless:

- Such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
- 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.

The Decision-maker shall not permit any questions, nor the introduction of any evidence, that would involve the disclosure of information protected under a legally recognized privilege under state law unless the person holding the privilege has waived it.

Because the University's grievance procedure is not a civil proceeding or state action, there is no right against self-incrimination. However, the Decision-maker cannot draw an inference regarding responsibility based solely on a Party's or witness's absence from the Hearing or refusal to answer cross-examination or other questions.

Availability of Evidence

The University will make all of the evidence that was subject to inspection and review by the Parties in connection with the preparation of the Investigative Report available at the Hearing to give each Party equal opportunity to refer to such evidence during the Hearing, including for purposes of cross-examination. Parties must notify the Title IX Coordinator at least two (2) business days prior to the Hearing regarding any physical evidence, transcripts, recordings, or other items requested to be physically available at the Hearing.

Conducting the Hearing

The Hearing will be conducted substantially as provided below. The Decision-maker may recess the Hearing for appropriate and reasonable rest and meal breaks. Any Hearing participant may request a break.

1. The Title IX Coordinator will serve as the moderator for the Hearing. The function of the moderator is to move the proceeding forward in an unbiased manner and to give the Parties and witnesses an opportunity to get their evidence before the Decision-maker.
2. The moderator will give each party the opportunity to make an opening statement, first the Complainant, then the Respondent.
3. The moderator will review the Complainant's allegations and review the evidence provided by the Complainant and summarized in the Investigative Report. The moderator will ask the Complainant whether he or she wishes to affirm the allegations and evidence as reviewed, and whether he or she would like to make any additional statements.
4. The Respondent's advisor will be given an opportunity to question the Complainant.
5. The moderator will review the Respondent's response to the allegations and review the evidence provided by the Respondent and summarized in the Investigative Report. The moderator will ask the Respondent whether he or she wishes to affirm the response and evidence as reviewed, and whether he or she would like to make any additional statements.
6. The Complainant's advisor will be given an opportunity to question the Respondent.
7. The moderator will bring each witness before the Decision-maker, either in person or through appropriate technology. The moderator will review any evidence provided by the witness and summarized in the Investigative Report. The moderator will ask the witness whether he or she wishes to affirm the evidence as reviewed.
8. The Complainant's advisor will be given an opportunity to question the witness.
9. The Respondent's advisor will be given an opportunity to question the witness.
10. If the University has provided any relevant evidence summarized in the Investigative Report, an appropriate representative or representatives of the University will review such evidence.
11. The Complainant's advisor will be given an opportunity to question the University's representative(s).
12. The Respondent's advisor will be given an opportunity to question the University's representative(s).
13. The Decision-maker may ask questions of any Party, witness, or University representative during the time that person is presenting evidence or being questioned.
14. Each Party, beginning with the Complainant, will have the opportunity to make a brief closing statement to the Decision-maker.
15. After confirming with the moderator that there is no additional evidence or other matters to be addressed, the Decision-maker will adjourn the Hearing.

Record of the Hearing

The University will create an audio or audiovisual recording, or transcript, of the Hearing and make it available on request to the Parties and to the Decision-maker for inspection and review.

Determination of the Allegations

Letter of Determination

The Decision-maker shall determine whether the Respondent is responsible for each of the allegations in the Formal Complaint that could constitute Sexual Harassment. The Decision-maker shall reach these decisions by applying the preponderance of the evidence standard, that is, whether it is more likely than not that the Respondent is responsible for the allegation being considered. In making the determination,

the Decision-maker:

- Must make an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence.
- Must not make credibility determinations based on a person’s status as a Complainant, Respondent, or witness.
- Must not rely on any statement of a Party or witness who does not submit to cross-examination at the Hearing.
- Cannot draw an inference about responsibility based solely on a Party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.
- Cannot rely upon evidence or information protected under a legally recognized privilege unless the person holding the privilege has waived it.

The Decision-maker shall issue a written determination stating the Respondent’s responsibility for the alleged misconduct. The written determination must include:

1. Identification of the allegations potentially constituting Sexual Harassment;
2. 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;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the University’s code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the 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 Complainant; and
6. The University’s procedures and permissible bases for the Complainant and Respondent to appeal.

The Decision-maker shall exercise independent and unbiased judgment with respect to:

- Findings of fact which support the determination(s);
- Conclusions regarding the application of the University’s code of conduct to the facts;
- The determination regarding responsibility as to each allegation; and
- The rationale for the Decision-maker’s conclusions.

The Decision-maker may consult with University officials for information with respect to the procedural steps taken, the University’s normal practices relating to appropriate sanctions, and the University’s procedures and permissible bases for appeals.

Effective Date of Determination

The University will provide the written determination regarding responsibility to the Parties simultaneously. If neither Party appeals, the determination becomes final on the date on which an appeal would no longer be considered timely.

If a Party appeals the determination, the determination becomes effective on the date the University provides the Parties with the written determination of the result of the appeal, unless the appeal decision requires further proceedings.

The Title IX Coordinator is responsible for effective implementation of any sanctions and/or remedies.

Sanctions

The University can impose a range of disciplinary sanctions and remedies with respect to any misconduct for which a Respondent has been determined to be responsible. Possible disciplinary sanctions and remedies include but are not limited to:

- Imposing, continuing, or modifying any Supportive Measures.
- Warning: A reminder to the respondent about relevant university rules, regulations, or policies and the potential consequences for violating them.
- No contact order: A directive to initiate no contact with the Complainant, including contact in person or by phone, email, text message, social network, or any other means, either directly or through a third party.
- Reprimand: Written notice that University rules, regulations, or policies have been violated and that continuation or repetition of misconduct may result in a more severe sanction.
- Relevant Education: A program of education/training on a topic(s) related to the violation(s).
- Fines: A monetary fine assessed for a disciplinary violation.
- Probation: Written notice explaining the serious nature of misconduct and outlining the terms of probation. The terms of probation may prohibit a student from participating in co-curricular activities and provide for expulsion for violating the terms of probation.
- Restitution: Reimbursement or other compensation for damage or loss of property.
- Eviction: Probation or removal from campus housing.
- Suspension - Termination of student status at the University for a specified time period.
- Expulsion - Termination of student status at the University permanently or for an indefinite time period.

If the Respondent who is found responsible is an employee, sanctions may include:

- Informal warning
- Letter of warning in employee's personnel file
- Harassment or sensitivity training
- Counseling
- Remediation
- Relocation of work office or area
- Restriction
- Reassignment of work duties
- Termination

Appeals

Right of Appeal

Both Parties may appeal from a determination regarding responsibility, or from the University's dismissal of all or any part of a Formal Complaint. The appeal procedures shall apply equally to both Parties.

Any of the following is an appropriate basis for appeal:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made; or
3. The Title IX Coordinator, Investigator, or Decision-maker 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.

Filing an Appeal

In order to appeal, a Party must file a written Notice of Appeal challenging the initial outcome that is

received by the Title IX Coordinator within 10 calendar days after the written Letter of Determination was issued. The Notice of Appeal must state, at a minimum:

1. Every basis for the appeal;
2. A complete statement of the facts and evidence that support each basis for the appeal; and
3. The relief requested as a result of the appeal.

Consideration of an Appeal

The University will promptly notify both Parties in writing that an appeal has been filed and provide a copy of the Notice of Appeal to the other Party. The non-appealing Party shall have 10 days from the date of such notice to submit to the Title IX Coordinator a written statement in support of the initial outcome or in opposition to the appeal. A copy of any such written statement shall be provided to the appealing Party.

The appeal shall be considered and decided by an Appeal Decision-maker who is not the same person as the Investigator, the Title IX Coordinator, or the Decision-maker(s) that reached the determination regarding responsibility or dismissal. The Appeal Decision-maker shall review the Notice of Appeal, the response of the non-appealing Party, and may review the record of the Hearing as necessary to reach a conclusion on the appeal. The Appeal Decision-maker shall be bound by the same rules and considerations which apply to a Decision-maker, as described in this grievance procedure.

Decision on Appeal

The Appeal Decision-maker shall issue a written decision describing the result of the appeal and the rationale for the result. The written decision shall, insofar as applicable, provide the same type of information required to be included in the initial written determination issued in connection with the Hearing.

The decision on appeal shall be appropriate to the basis or bases for appeal, and may adopt one or more of the following decisions, regardless of which Party filed the appeal:

- Affirm the initial written determination;
- Change any part of the written determination, including a change to find responsibility or to find no responsibility;
- Increase or decrease the sanctions;
- Require additional investigation (particularly in the case of new evidence that is material, not merely cumulative, and if presented in the Hearing could reasonably have resulted in a different determination); or
- Order a new Hearing

The written decision on the appeal shall be provided simultaneously to both Parties.

Scheduled Time Frames for the Grievance Procedure

Normal Time Frames

The University will conclude this grievance procedure in a reasonably prompt manner and in accordance with the following time frames:

- The University will generally issue the written Hearing determination within 75 business days after the filing of the Formal Complaint.

- The University will generally issue the written appeal determination within 20 business days after the filing of the Notice of Appeal.
- The University will generally conclude any informal resolution process within 60 business days after the Parties agree to an informal resolution.

Temporary Delays or Extensions

The University may direct a temporary delay in the grievance procedure or the limited extension of the normal time frames for good cause. The University will notify the Complainant and the Respondent in writing of any temporary delay or limited extension and the reasons for the action.

The Complainant or Respondent may request a temporary delay or limited extension in writing to the Title IX Coordinator. The written request must state the reason for the delay or extension and the length of the delay or extension being requested.

Some examples of situations which may constitute good cause for a delay or extension include: the absence of a Party, a Party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

The University will attempt to accommodate the schedules of Parties and witnesses throughout the grievance procedure in order to provide Parties with a meaningful opportunity to exercise their lawful rights. However, the University will not delay the grievance procedure indefinitely because a Party, witness, or advisor is refusing to cooperate. In order to resolve complaints within reasonable time frames, the grievance procedure can proceed to conclusion even in the absence of a Party or witness.

Retaliation Prohibited

Retaliation Defined

Retaliation shall include the following:

- Conduct intended to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, 34 CFR Part 106, or this grievance procedure.
- Bringing disciplinary charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint, for the purpose of interfering with any right or privilege secured by Title IX, 34 CFR Part 106, or this grievance procedure.

No Retaliation

Neither the University nor any other person may engage in retaliation against an individual because the individual has made a report or complaint or testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or Hearing under this grievance procedure.

Any person who believes that he or she has experienced retaliation which is prohibited by this grievance procedure may file a complaint or Formal Complaint with the Title IX Coordinator.

Confidentiality

The University must keep confidential the identity of:

- Any individual who has made a report or complaint of sex discrimination;
- Any individual who has made a report or filed a Formal Complaint of Sexual Harassment;
- Any Complainant;
- Any individual who has been reported to be the perpetrator of sex discrimination;
- Any Respondent; and
- Any witness,

except as may be permitted by law or as necessary to carry out this grievance procedure.

Resources

Anderson University offers a variety of resources for students, faculty, and staff who seek support regarding gender-based discrimination and harassment. Realizing that people and how they respond can vary notably, there are varied means of support, both formal and informal, available to those who experience discrimination and harassment. If a person's needs change over time, they may return to this information for additional information.

If you have experienced gender-based discrimination or harassment, your safety and well-being are our top concerns. There are several on-campus resources available to students who have experienced sexual violence or sexual misconduct. The larger Anderson community offers additional resources, and we encourage members of the AU family to utilize any resources available to them.

SAFETY CONCERNS

Any community member who is concerned about his/her safety on campus is encouraged to immediately contact Campus Safety at 864.231.2060. If you are off campus, please contact local law enforcement by calling 911.

ACCOMMODATIONS FOR STUDENTS WITH DISABILITIES

By federal law, a person with a disability is any person who: 1) has a physical or mental impairment; 2) has a record of such impairment; or 3) is regarded as having such an impairment, which substantially limits one or more major life activities such as self-care, walking, seeing, hearing, speaking, breathing, or learning. A student requesting an accommodation in regard to a Title IX investigation/adjudication process must follow the appropriate process for requesting an accommodation through the Office of Accessibility Services in the Center for Student Success (Thrift Library, Suite 202). The Office of Accessibility Services will make a determination regarding the request and notify the appropriate parties. Reasonable accommodations depend upon the nature and degree of severity of the documented disability. While the Americans with Disabilities Act of 1990 requires that priority consideration be given to the specific methods requested by the student, it does not imply that a specific accommodation must be granted if it is deemed not reasonable and other suitable techniques are available.

CONFIDENTIAL RESOURCES

If you are not certain that you want to take formal action (e.g., filing a police report or making a report on campus), you may receive support from any of several staff members who are designated as Confidential Resources. Only in very rare and specific circumstances would they ever divulge information that you share with them.

Confidential Resources at AU

Thrive Wellness	
Counseling Center	
Erin Maurer, Director, and clinical staff	emaurer@andersonuniversity.edu
Health Center	
Deb Taylor, Director, and clinical staff	dtaylor@andersonuniversity.edu
Sports Medicine	
Scott DeCiantis, Director	sdeciantis@andersonuniversity.edu
Jordan Mitchell, Assistant Director	jcmitchell@andersonuniversity.edu
Campus Ministries	
James Hanson, Director of CM	jhanson@andersonuniversity.edu
Becky Walker, Associate CM for Women	bwalker@andersonuniversity.edu

OFF CAMPUS/COMMUNITY RESOURCES

Anderson University does not manage any of the resources listed below, but you may find them helpful, particularly with needs beyond the campus experience.

Anmed Medical Center

800 N Fant Street
Anderson, SC 29621
864.512.1000

The Emergency Department at Anmed Medical Center can provide initial care and treatment following incidents of sexual assault or domestic violence. They can also collect evidence that may be used if you decide to file a police report.

Foothills Alliance

216 E Calhoun Street
Anderson, SC 29621
864.231.7273

Foothills Alliance offers a 24-hour sexual assault crisis hotline, accompaniment and advocacy for survivors at local emergency rooms, with law enforcement, and in court, individual/family therapy, and group therapy.

Rape, Abuse and Incest National Network (RAINN)

Hotline: 800.656.HOPE (4673)

The Rape, Abuse and Incest National Network is the nation's largest anti-sexual violence organization. RAINN operates the national sexual assault hotline at 800.656.HOPE (4673) and the national sexual assault online hotline at www.rainn.org. The hotline offers free, confidential services. RAINN educates the public about sexual violence and leads national efforts to prevent sexual violence, improve services to victims, and ensure that rapists are brought to justice.

Safe Harbor

Phone: 800.291.2139; Anderson: 864.622.0939

Safe Harbor provides emergency shelter; adult, child and family counseling; order of protection assistance; housing assistance; and education for those who may experience domestic violence in Anderson, Greenville, Pickens, and Oconee Counties.

<https://www.safeharborsc.org/>