DEAN OF STUDENTS OFFICE

University Policies, Procedures, & Resources related to Title IX

An information booklet provided by:
Student Engagement and Wellness
Tivoli 311
Campus Box 74, PO Box 173362
Denver, CO 80217
Phone: 303-556-3559
Fax: 303-556-3896
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*Please note: This guidebook is intended to provide information and guidance related to Title IX and MSU Denver’s Student Code of Conduct. If there are discrepancies between this guidebook and the Student Code of Conduct, the Student Code of Conduct takes precedence. The Student Code of Conduct can be found at [www.msudenver.edu/conduct](http://www.msudenver.edu/conduct) under the Student Code of Conduct tab.*
What is Title IX?

Title IX of the Educational Amendments of 1972 is a federal law that prohibits discrimination on the basis of sex in any federally-funded educational program or activity. Under Title IX, discrimination based upon sex includes sexual misconduct issues like sexual harassment, sexual assault, stalking, and other forms of interpersonal violence. Discrimination based upon gender is also covered under Title IX. Intimate partner violence including domestic violence and dating violence also falls under the prohibition against sexual misconduct. MSU Denver complies with Title IX by strictly prohibiting sexual misconduct.

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MSU Denver’s Notice on Nondiscrimination

MSU Denver complies with all federal laws, executive orders and regulations regarding affirmative action and equal opportunity, as well as all civil rights laws of the state of Colorado. MSU Denver, therefore, employs every means to eliminate discrimination on the basis of race, color, disability, religion, national origin, sex, sexual orientation or preference, gender identity and expression, age or status, such as Vietnam-era or disabled veteran, in all matters of education and employment opportunity provided by the University.

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Dean of Students Office

Part of the mission of the Dean of Students Office is to assist in maintaining the general welfare of the campus community. The Dean of Students Office supports MSU Denver’s efforts to maintain a campus in which all members have the opportunity to do their best work and to participate fully in campus life. The responsibility of the Dean of Students Office is to administer the Student Code of Conduct for MSU Denver.

MSU Denver and the Dean of Students Office work to prevent barriers to accessing educational opportunities because of a student’s sex or gender in a prompt manner. Through the Dean of Students Office, MSU Denver endeavors to end discrimination, attempts to prevent its recurrence, and tries to remedy the effects upon the reporter and the community. Under Title IX, MSU Denver may take jurisdiction over prohibited behavior that takes place either on- or off-campus.

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When I make a report, is it confidential?

MSU Denver cannot ensure confidentiality of a complaint. If you request confidentiality, MSU Denver may be limited in its ability to take disciplinary action against the alleged respondent. Moreover, if you request confidentiality, MSU Denver must evaluate your request in the context of its commitment to provide a reasonably safe and non-discriminatory environment for the campus community. Information may be shared to the extent necessary for MSU Denver to pursue other steps to attempt to limit the effects of the alleged misconduct and work toward preventing its recurrence.

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What if I want to talk to someone but want to remain confidential?

If you desire that details of the incident be kept confidential, there are several resources on campus that you can speak to. Counselors in the MSU Denver Counseling Center as well as licensed medical staff and victim assistance providers at Auraria Health Center will maintain confidentiality to the extent possible by law. Counselors in the Counseling Center are available to help students free-of-charge and can be seen on an emergency basis. MSU Denver faculty and staff members can contact the Colorado State Employee Assistance Program for confidential counseling. See contact information and resource information in the Resource section of this booklet.

MSU Denver community members, including students, staff, and faculty, can also contact the Phoenix Center for confidential victim’s assistance to the extent possible by law. The Phoenix Center can assist in reporting and can connect you to both on campus and local resources. The Phoenix Center provides advocacy services for victims that includes: Accompanying victims to the hospital to receive an examination and evidence collection, court advocacy for orders of protection or through criminal proceedings, and advocacy through the reporting process.

With the exception of MSU Denver Counseling Center mental health providers, licensed medical staff and victim assistance providers at Auraria Health Center, and Phoenix Center victim’s assistance providers, if a MSU Denver staff or faculty member becomes aware of a complaint of sexual misconduct, including harassment, the employee is required to bring the information to the Title IX Coordinator/Equal Opportunity Office or the Dean of Students Office so that concerns are heard and services can be offered to affected students.

An individual who speaks to one of the confidential resources noted in this section must understand that, if the individual wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. An individual can speak to a confidential resource and then later decide to file a report with the University to have the incident fully investigated. For questions about confidentiality when filing a complaint with the University, an individual can contact the Dean of Students Office at 303-556-3559 and ask to speak to Title IX staff.

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Medical Assistance & Preservation of Evidence

Individuals who experience sexual misconduct are strongly encouraged to seek immediate medical attention in order to treat injuries, test for and treat sexually transmitted infections, and access emergency contraception (if requested). In addition, a hospital can perform a sexual assault evidence collection procedure. If possible, an individual who has been sexually assaulted should not shower, bathe, douche, or change clothes or bedding before going to the hospital or seeking medical attention. If the individual decides to change clothes, he or she should not wash the clothes worn during the assault and should bring them to the hospital or medical facility. Do not delete emails, texts, voicemails, or social media messages as evidence may exist in those formats.

These steps are important to help preserve evidence for possible use in legal actions or requests for a civil restraining order or order of protection. Because evidence dissipates quickly, individuals who wish to preserve evidence are encouraged to seek medical attention within 48 hours of the incident.

MSU Denver community members (students, faculty, staff) can contact the Auraria Health Center by calling 303-556-2525 or 303-352-4455 (after hours) in order to seek treatment or support in accessing other medical or community resources. The Auraria Health Center can provide transportation support to a local hospital for a sex assault examination or other medical services.

Immediate Actions by the University

MSU Denver may take immediate interim actions to protect the safety of the Auraria community in order to support reporters (student accuser), respondents (accused student), and witnesses to continue studies (when possible), and to support the integrity of an investigation. The Dean of Students or their designee, after considering the needs of the individual student and the community, will determine which action(s) should be taken. These actions may include interim suspension of the accused student, no-contact notices, modification of class or work schedules, or addressing other academic concerns like absences, assignments, financial aid or withdrawals. Students can contact the Dean of Students Office with questions regarding assistance and support by calling 303-556-3559 or by reviewing the Resource section of this booklet.

Retaliation is prohibited by the University

Retaliation is any action directed towards anyone involved in a student conduct case, including witnesses, intended to cause harm or distress, or to dissuade someone’s participation in or interfere with an investigation. Retaliation in any form for reporting sexual misconduct or for cooperating in a sexual misconduct investigation is strictly prohibited and may be addressed as a separate violation of the Student Code of Conduct. An individual experiencing retaliation should contact the Dean of Students Office by calling 303-556-3559.
Reporting Sexual Misconduct

MSU Denver strongly encourages prompt reporting of information related to any possible sexual misconduct. Although there is no time limit on the reporting of formal complaints with the University, the institution may ultimately be limited in its investigation if too much time has passed or if the accused student has graduated. Additionally, prompt reporting supports the preservation of evidence.

Amnesty for students reporting sexual misconduct:
MSU Denver recognizes that an individual who has been drinking or using drugs at the time of an incident may be hesitant to make a report because of potential Student Code of Conduct consequences for his/her own conduct. An individual who reports sexual misconduct will not be subject to disciplinary action by MSU Denver for his/her own personal consumption of alcohol or drugs at or near the time of the incident provided that any such violations did not and do not place the health and safety of any other person at risk. MSU Denver may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

Individuals have multiple reporting options and can engage both University and law enforcement options at the same time. The decision to pursue legal action through the law enforcement/criminal justice system does not impact an individual’s ability to proceed with filing a report with the University.

1. For University or campus action:

   A) The Dean of Students Office – this office is responsible for investigating any allegation of sexual misconduct where the respondent (accused) is a MSU Denver student. The Dean of Students Office can connect students interested in making a report involving a student enrolled at another Auraria institution with the appropriate contacts. You can expect to have incidents of sexual misconduct taken seriously and responded to quickly. Incidents will be investigated and resolved through administrative procedures as described in the Student Code of Conduct.

   To make a report, an individual can visit the Dean of Students Office in Tivoli 311 and speak to the Title IX Investigator, an individual can call the office at 303-556-3559, or an individual can file a report online by visiting www.msudenver.edu/conduct and then selecting the red “File a Conduct Report” button.

   B) Title IX Coordinator/Equal Opportunity – if a report alleges faculty or staff member misconduct and/or discrimination, you should file the report with the Office of Equal Opportunity to be investigated and properly resolved. You can contact Dr. Percy Morehouse in the Office of Equal Opportunity by visiting the Student Success Building, room 440, or by calling 303-556-4746.

   C) If the student or campus community member alleged to have committed sexual misconduct is a student, staff, or faculty member at another Auraria campus institution, contact:

   - Auraria Higher Education Center Equal Opportunity Director at 303-556-2243
   - Community College of Denver Director of Human Resources at 303-352-3037
   - University of Colorado Denver Title IX Coordinator at 303-315-2110.

2. For law enforcement action:
A) Auraria Police – An incident can be reported to the Auraria Police Department, or your local police department, even if the reporter (student accuser) has not decided to take legal action. Auraria Police can be reached by calling 911 from any campus phone, or by calling 303-556-5000 from a cell phone or other non-campus phone. If the incident took place off campus, Auraria Police or the Dean of Students Office can assist you in contacting the police who have jurisdiction over that area. A student may file a police report even if they choose not to pursue action with the University. If you would like to file a report with both law enforcement and the University, contact the Dean of Students Office through the above listed options and staff can support you in doing so.

MSU Denver community members may also contact the Department of Education Office of Civil Rights (OCR). The Denver OCR can be reached by calling 303-844-5695 or emailing OCR.Denver@ed.gov. The OCR National Headquarter office can be reached by calling 800-421-3481 or emailing OCR@ed.gov.

Actions and investigations initiated under the Title IX process are separate from civil or criminal proceedings that may relate to the same incident. Investigations or conduct proceedings by the institution typically are not postponed while criminal or civil proceedings are pending unless otherwise determined by the Title IX investigation.

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What happens after I file a report?

In general, the Title IX Investigator and Conduct Officer shall coordinate the investigation of complaints of sexual misconduct when the respondent is a student. Typically, investigations shall be conducted and completed in 60 calendar days. Should the investigation take longer than 60 calendar days, all parties to the dispute will be notified. The evidence standard used in an investigation is a preponderance of the evidence (i.e. is it more likely than not). The Title IX Investigator may conduct a thorough investigation of the case which may include gathering relevant information, interviewing the complainant and respondent, and identifying and interviewing witnesses. Both parties to the complaint have the right to present evidence and witnesses. Information identified during the course of an investigation may be shared with both parties to a complaint as a part of the student conduct process. Conflict resolution, including mediation, will not be used to resolve sexual assault complaints.

The reporter of and a respondent to a sexual misconduct case are eligible to have an advisor of their choice support them during the conduct process. However, the advisor may not speak on the student’s behalf, and if an advisor is also a witness in the case the student must identify an alternate advisor as an advisor cannot also be a witness. See the Student Code of Conduct for more information about the use of an advisor. If the reporter or respondent do not participate in the investigation or student conduct process, the process may move forward even if a party does not participate.

Upon completion of an investigation, the reporting and responding parties will have an opportunity to review the investigation report, provide additional information to include in the report, and discuss potential corrections to the report. The Title IX Investigator will determine whether there is a preponderance of the evidence and will forward the report to the Conduct Officer to determine responsibility and sanctioning. Parties to the dispute will receive written notification of the final disposition of the complaint upon completion of the investigation and conduct process. Students found
responsible could receive sanctions ranging from a warning through suspension or expulsion. This is separate from criminal and civil proceedings in the case. Additionally, the Dean of Students Office may work closely with the University’s Title IX Coordinator in the Office of Equal Opportunity throughout the complaint and conduct process.

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MSU Denver’s Responsibilities

Once the University is made aware of an allegation of sexual misconduct the University generally:

1. Informs the reporter of available grievance procedures, limits on confidentiality, how to file a report within the institution, provide an explanation of the complaint process, provide information on the protocol for reporting to campus police, provide the police protocol once information is received, and provide information on reporting the incident to the Office of Civil Rights.

2. Provide appropriate connection to the Office of Equal Opportunity that is responsible for investigation of employee sexual misconduct, if the alleged respondent is a faculty or staff member.

3. As applicable, provide an anonymous report of the incident, date and location for Clery Act reporting (the Clery Act is a federal law that requires anonymous statistical reporting of a number of crimes including sexual misconduct; the numbers appear in an annual crime report).

What if I am the accused student (the “respondent”)?

MSU Denver complies with Title IX by striving to provide a fair, impartial, and prompt investigation and conduct process. As the respondent, you have the right to provide information and evidence that may support you in responding to the complaint. You have the right to confidentiality so that only those with a right to know may have access to the information. Both the reporting party and the respondent have the right to receive written notification of the outcome of an investigation. You also have the right to appeal the finding from the conduct process. If the reporter or respondent do not participate in the investigation or student conduct process, the process may move forward even if a party does not participate.

The reporter of and a respondent to a sexual misconduct case are eligible to have an advisor of their choice support them during the conduct process. However, the advisor may not speak on the student’s behalf, and if an advisor is also a witness in the case the student must identify an alternate advisor as an advisor cannot also be a witness. See the Student Code of Conduct for more information about the use of an advisor.

Resources, such as the Counseling Center, are available to both the reporter and respondent involved in a sexual misconduct case. MSU Denver strongly encourages those involved to access support resources in order to manage the stress related to their involvement. Support services and other resources can be found at the back of this booklet.

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Right to Appeal

As this process is part of the student conduct policy it is eligible for appeal under Article IV-F of the Student Code of Conduct. Both parties are eligible to appeal. If one party chooses to appeal, the other party will be notified so that the appeals can be submitted simultaneously. There will only be one appeal allowed.

The criteria for the appeal are limited to the following:

1. To determine whether the original process was conducted fairly in light of the charges and evidence presented and in conformity with prescribed procedures, giving both parties a reasonable opportunity to prepare and to present evidence related to the allegations.
2. To determine whether the decision reached regarding the accused student or organization was based on substantial evidence; that is, whether the facts in the case were sufficient to establish that a violation of the Student Code of Conduct did occur.
3. To determine whether the sanction(s) imposed was appropriate for the violation of the Student Code of Conduct which the student or organization was found to have committed;
4. To consider new evidence sufficient to alter a decision or other relevant facts not brought out in the original process because the person or organization appealing did not know such evidence and/or facts at the time of the original process.

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Resources, Contact Information, and Websites

**On-campus**
Auraria Police Department
303-556-5000, or 911 from any campus phone
www.ahec.edu/hr/campuspolice.htm

GLBT Student Services at Auraria
303-556-6333
www.glbtss.org

MSU Denver Campus Safety and Crime information
www.msudenver.edu/campussafetyandcrime

MSU Denver Counseling Center
303-556-3132
www.msudenver.edu/counsel/

MSU Denver Dean of Students Office
303-556-3559
www.msudenver.edu/deanofstudents

MSU Denver Health Center
303-556-2525
www.healthcenter1.com

MSU Denver International Student Services (visa and immigration assistance)
303-556-6167
www.msudenver.edu/internationalstudentservices

MSU Denver Office of Financial Aid
303-556-8593
www.msudenver.edu/financialaid
Satisfactory Academic Progress contact: Jennifer Tixier, tixier@msudenver.edu
Tuition and Fee Appeal contact: Mike McCabe, mmccab14@msudenver.edu

MSU Denver Ombudsman Office
303-556-3661
www.msudenver.edu/ombuds/

MSU Denver Student Code of Conduct
www.msudenver.edu/handbook/studentcodeofconduct

MSU Denver Title IX Coordinator and Office of Equal Opportunity
303-556-4746
www.msudenver.edu/eoo/

MSU Denver Victim's Assistance Service
303-352-HELP (4357), or After Hours 303-352-4455
www.msudenver.edu/healthcenter/victimassistance/

MSU Denver Institute for Women's Studies and Services
303-556-8441
www.msudenver.edu/women
The Phoenix Center (confidential victim advocacy)
303-556-CALL (2255)
www.thepca.org/

**Off-campus (MSU Denver does not specifically endorse these organizations or services)**
Colorado Legal Services
(For Veteran service members and families, visit Statesidelegal.org)
303-831-1321
www.coloradolegalservices.org

Colorado State Employee Assistance Program (For MSU Denver employees)
303-866-4314 or Toll Free 800-821-8154
www.colorado.gov/c-seap

Denver Center for Crime Victims
303-894-8000, 303-718-8289 (Español)
www.denvervictims.org/

The Blue Bench Rape Crisis Hotline
303-322-7273
www.thebluebench.org/

US Department of Education Office of Civil Rights
1-800-421-3481
www.ed.gov/ocr

US Department of Justice
1-888-TITLE-06 (1-888-848-5306)
www.justice.gov/crt/about/cor/coord/titleix.php

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**Definitions**

**Consent:** An affirmative agreement—through clear actions and words—between two or more people to engage in sexual activity. Consent is informed, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity.

In Colorado, consent is defined in state statute 18-3-401 and means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent under the provisions of this part 4. Submission under the influence of fear shall not constitute consent. Nothing in this definition shall be construed to affect the admissibility of evidence or the burden of proof in regard to the issue of consent under this part 4.

**Dating Violence:** The federal definition of dating violence is violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
Currently, the State of Colorado does not have a specific definition of dating violence.

**Domestic Violence:** In the State of Colorado statute 18-6-800.3, domestic violence is: An act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. "Domestic violence" also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship. An "intimate relationship" means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

**Incapacitation:** A state where one cannot make a rational, reasonable decision because they lack the ability to understand the who, what, when, where, why or how of their sexual interaction. Sexual activity with someone known to be, or should be known to be mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), is not a consensual act.

**Intimate Relationship:** A relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

**Preponderance of Evidence:** A standard of evidence used by MSU Denver in the conduct process that says what is alleged to have happened is, more likely than not, what actually happened (i.e. it is 51% likely that the incident occurred).

**Retaliation:** Any action directed towards anyone involved in a student conduct case, including witnesses, intended to cause harm or distress, or to dissuade someone’s participation in or interfere with an investigation. Retaliation in any form for reporting a conduct issue or for cooperating in a conduct investigation is strictly prohibited and will be addressed as a separate violation of the Student Code of Conduct.

**Sexual Assault:** Any sexual act done against the will of another.

Examples of sexual assault include, but are not limited to, the following behaviors when consent is not present:

- Sexual intercourse (vaginal, anal, oral)
- Penetration of an orifice (anal, vaginal, oral) with the penis, finger, or other object
- Unwanted touching of the genitals, buttocks, breast, or other body part inside or outside of the clothing
- Coercion or force to make someone else touch one’s genitals, buttocks, breast, or other body part
- Inducing sexual activity through drugs or alcohol
- Engaging in sexual activity with a person who is unable to provide consent due to the influence of drugs, alcohol, or other condition

In Colorado state statute 18-3-402, sexual assault is defined as:
(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: (a) The actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will; or (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or (c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or (d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or (e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or (f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless the act is incident to a lawful search; or (g) The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or (h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

Sexual exploitation: Taking non-consensual, unjust or abusive sexual advantage of another. Examples include, but are not limited to:

- prostituting another person
- non-consensual video or audio-taping of sexual activity
- going beyond the boundaries of consent (such as knowingly allowing another to surreptitiously watch otherwise consensual sexual activity)
- engaging in non-consensual voyeurism
- knowingly transmitting or exposing an STD or HIV to another student without the knowledge of the student

Sexual Harassment: Gender-based verbal or physical conduct that unreasonably interferes with or deprives someone of educational access, benefits or opportunities. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when it meets any of the following: A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic status; B. Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; C. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive environment for working, learning, or living on campus

Please see the University’s complete Sexual Harassment policy.

Sexual Misconduct: An umbrella term that includes acts of a sexual nature that are unwelcome.

Stalking: The State of Colorado statute 18-3-602 definition of stalking is: A person commits stalking if directly, or indirectly through another person, the person knowingly:
(a) Makes a credible threat to another person and, in connection with the threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship; or

(b) Makes a credible threat to another person and, in connection with the threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensures; or

(c) Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this section (c), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress.

**Conduct Officer**: The title of “Conduct Officer” is that person designated by the University President to be responsible for the administration of the Student Code of Conduct.

**Title IX**: A federal law that prohibits discrimination on the basis of sex in any federally-funded educational program or activity. Under Title IX, discrimination based upon sex includes sexual misconduct issues like sexual harassment, sexual assault, and stalking. Discrimination based upon gender is also covered under Title IX.

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Incident Report received at Dean of Students Office

Title IX Investigator Assigned

Information, including evidence and witness statements, may be shared with each party via the Title IX Investigator.

Title IX Investigator files outcome report. Investigation report shared with each party so that each has an opportunity to review, clarify information, and provide any additional evidence.

Investigator makes preponderance of evidence determination. Report submitted to Conduct Officer and provided to Reporter and Respondent.

Conduct Officer may meet with each party separately.

Student Conduct Officer may make determination of responsibility and, may assign a sanction(s).

In most cases, the process takes between 30-60 days. If the process takes longer than 60 days, both parties will receive notification.

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