

Pfeiffer University

SEX¹ DISCRIMINATION AND HARASSMENT POLICY AND TITLE IX SEXUAL HARASSMENT² GRIEVANCE PROCEDURES

2023-24

Eff. 11/12/2023

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¹ As used herein, “sex” includes birth/biological sex, gender, gender identify and expression, and sexual orientation.

² As defined by Title IX of the Education Amendments Act of 1972 and its implementing regulations (“Title IX”) and herein, Sexual Harassment includes Sexual Assault, Dating Violence, Domestic Violence, and Stalking,

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The Title IX Sexual Harassment Grievance Procedures apply only to allegations of Sexual Harassment in Pfeiffer's Education Program or Activity (as defined herein).⁴

Pfeiffer will address allegations of other types of sexual harassment (i.e., that do not meet the definition of Title IX Sexual Harassment)

“Consent” is informed, freely and actively given, mutually understandable words or actions that indicate a willingness and readiness to participate in mutually agreed upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a clear and unambiguous agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another.

“Incapacitated” means lacking the physical and/or mental ability to make informed, rational judgments. A person may be Incapacitated for a variety of reasons, including but not limited to being asleep or unconscious, having consumed alcohol or taken drugs, or experiencing blackouts or flashbacks.

“Respondent”

“Supportive Measures” are non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant and/or a Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to Pfeiffer’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Pfeiffer’s educational environment or deter Sexual Harassment.

Supportive Measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus. Pfeiffer will maintain as confidential any Supportive Measures provided to a Complainant or a Respondent, to the extent that maintaining such confidentiality would not impair Pfeiffer’s ability to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.

SECTION II. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES

A. APPLICABILITY, COMPLAINT INTAKE, AND OVERARCHING PROVISIONS

2A.01 Applicability of Grievance Procedures

As noted above, these Grievance Procedures apply to allegations of Sexual Harassment in Pfeiffer's Education Program or Activity (and to related Retaliation, at the discretion of the Title IX Coordinator). Pfeiffer treats Complainants and Respondents equitably by providing remedies to a Complainant where Pfeiffer makes a determination of responsibility for Sexual Harassment against a

2A.04 Notice of Allegations

Upon receipt of a Formal Complaint, the Title IX Coordinator will provide the Complainant and any known Respondent written notice of these Grievance Procedures and of the allegations of conduct potentially constituting Sexual Harassment, including

Procedures are guidelines and may be altered for good cause with written notice to the Complainant and the Respondent of any delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party

all requirements to graduate during the grievance process, Pfeiffer may hold the Respondent's diploma until full resolution of the Formal Complaint.

2A.13 Privacy and Disclosure

Except as may be permitted by FERPA or as required by law or to carry out any investigation or resolution

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in these Grievance Procedures to the singular “party,” “Complainant,” or “Respondent” include the plural, as applicable.

2A.21 Individuals with Disabilities

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Due to the sensitive nature of the investigative report, neither the parties nor their advisors may copy, publish, photograph, print, image, record or in any other manner duplicate the report. Parties who violate these restrictions may be disciplined, and advisors who violate these restrictions may be disciplined and/or be barred from further participation in the grievance process.

Nothing in this document restricts the ability of either party to discuss the allegations under investigation or to gather, preserve, and/or present relevant evidence.

2B.04 Submission of Evidence; Expert Witnesses

Any evidence that the parties wish for the hearing officer to consider should be presented to the investigators as early as possible during the investigation process. Evidence that is not submitted in a timely manner and prior to finalization of the investigative report may be excluded from the hearing at the discretion of the hearing officer.

Similarly, all relevant witnesses should be identified to the investigators as early as possible during the investigation. The hearing officer generally will not call or consider written statements from witnesses who were not identified to investigators and interviewed during the investigation. However, in their discretion and for good cause, the hearing officer may choose to consider information from witnesses who were not interviewed during the investigation.

Any party who wishes to present testimony from an expert witness should identify that witness by providing the witness's name, contact information and a summary of (1) the witness's qualifications to offer expert testimony; and (2) any opinions the witness

C. HEARING AND APPEALS

2C.01 The Formal Resolution Process

Unless a Formal Complaint is dismissed or the parties elect to participate in informal resolution pursuant to section 2.D.01 below, following the investigation the appointed hearing officer will conduct a hearing in which they may question the Complainant, the Respondent, and any witnesses whose testimony the hearing officer deems relevant. During the hearing, the hearing officer and the parties may also question the investigators as necessary to clarify information provided in the investigative report.

2C.02 Appointment of the Hearing Officer and Challenging of the Same

The Title IX Coordinator will appoint a hearing officer, who will administer the hearing, serve as the decision-maker regarding responsibility, and (as applicable) recommend sanctions. The hearing officer may be a Pfeiffer employee or non-employee. The Title IX Coordinator will contemporaneously share the hearing officer's name and contact information with the Complainant and the Respondent. The Title IX Coordinator will provide to the hearing officer the Formal Complaint, all evidence directly related to the allegations, the parties' written responses to the evidence, and the investigative report.

Within two days of such appointment, the Complainant or the Respondent may identify to the Title IX Coordinator in writing

2C.13 Review of Sanctions

The hearing officer will forward their sanctions recommendation to the Title IX Coordinator, who will share it with the Vice President of Student Affairs (18 case 628 (4) 7/12/23 8/18/23 8/28/23) -1043 16304576 (14)

Title IX Coordinator will carefully consider such statements and will promptly assign a different appeal officer if the Title IX Coordinator determines that a material conflict of interest or material bias exists.

2C.18 Appellate Review

The Title IX Coordinator will share the Formal Complaint, the investigative report, the hearing recording, all statements introduced at the hearing, any other evidence considered by the hearing officer, the hearing officer’s written findings, and the written appeal submissions with the appeal officer. In addition, if an appeal raises procedural issues, the Title IX Coordinator may provide the appeal officer additional information relevant to those issues.

Within ten days of the receipt of the appeal, the Title IX Coordinator shall provide the appeal officer with the following information: (a) the Formal Complaint, the investigative report, the hearing recording, all statements introduced at the hearing, any other evidence considered by the hearing officer, the hearing officer’s written findings, and the written appeal submissions; (b) any other information relevant to the appeal.

D. INFORMAL RESOLUTION

2D.01 Determination of Formal Versus Informal Resolution

At any time before the issuance of the hearing officer's responsibility determination, the parties may elect to resolve the Formal Complaint through the informal resolution process, provided that (1) the parties both voluntarily consent in writing to such resolution; (2) both parties are students or employees of Pfeiffer; and (3) the Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving that specific Formal Complaint. Otherwise, a Formal Complaint that is not dismissed will proceed to a hearing. Informal resolution is not an appropriate mechanism for resolving a Formal Complaint by a student against an employee.

Informal resolution may not be selected for less than all of the misconduct alleged in the Formal Complaint. If the parties agree to informal resolution (and informal resolution is appropriate for all of the allegations at issue), then all of the allegations must be resolved according to the informal resolution process.

Either party has the right to terminate the informal resolution process at any time and proceed with formal resolution (i.e., a full investigation and hearing). Furthermore, the Title IX Coordinator may, where appropriate, terminate informal resolution and proceed with the formal resolution process instead.

2D.02 Notice of Allegations and Notice of Informal Resolution and Facilitator

The Title IX Coordinator will provide the parties a written notice disclosing the Formal Complaint's allegations and the requirements of the informal resolution process, including any circumstances under which Pfeiffer would preclude the parties from resuming a Formal C9.7 (338 0 Td[(5l R)-5 (e)-5.6 9 (o(p)1.7 (a

During informal resolution, the parties may: (1) engage one another in the presence of, and/or facilitated by, the informal resolution facilitator; (2) communicate their feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with one another or by communicating indirectly through the informal resolution facilitator); (3) relay their wishes and expectations regarding the future; and/or (4) come to an agreed-upon resolution of the allegations in the Formal Complaint.

Participation in the informal resolution process is completely voluntary, and either party, the informal resolution facilitator, or the Title IX Coordinator may terminate the process at any time.

2D.04 Resolution

The informal resolution facilitator will attempt to facilitate the parties' resolution of the Formal Complaint. If this process results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to factors including the extent to which the resolution will protect the safety of the Complainant and the entire Pfeiffer community), the resolution will be reduced to writing, which will conclude the process and close the Formal Complaint.

2D.05 Written Resolution Agreement

To be effective, any agreement reached during the informal resolution process must be memorialized in writing and signed by the parties, the informal resolution facilitator, and the Title IX Coordinator. If a Respondent completes all measures agreed to in the written resolution agreement, no further process is available with regard to the allegations in the Formal Complaint.

Measures that parties agree to in the informal resolution process may include (but are not limited to):

- 1)

2D.07 Confidentiality of Information Shared

Any information

It is advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before an evidence collection kit is completed. You should also wear (or take with you in a paper – not plastic – bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

3. Obtain Emotional Support

The Counseling Center can help students sort through their feelings and begin the recovery process. The professionals at the Counseling Center are trained to provide crisis intervention on short-term and emergency issues. The Counseling Center can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, counseling services

are strictly confidential and are not part of a student's educational record. (c.5.8.75 -0 11P242.MCID1 ((-)TjEMC ETBT11.04 5