



UTAH VALLEY UNIVERSITY

Policies and Procedures

POLICY TITLE	Title IX Sexual Harassment	Policy Number	162
Section	Governance, Organization, and General Information	Approval Date	July 14, 2022
Subsection	Individual Rights	Effective Date	July 14, 2022
Responsible Office	Office of the Vice President of People and Culture		

1.0 PURPOSE

1 **1.1** Utah Valley University is committed to maintaining a respectful and safe environment for its
2 students, faculty, staff, and visitors. This policy defines and prohibits discrimination on the basis
3 of sex, including sexual harassment, in education programs and activities; details how to report a
4 violation of this policy; describes university resources and supportive measures to protect those
5 involved in the process; and outlines investigation, disciplinary, and due process procedures for
6 addressing reported violations of this policy.

2.0 REFERENCES

- 7 **2.1** *The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*
8 (*Clery Act*), 20 U.S.C. § 1092 (1990)
- 9 **2.2** *Family Educational Rights and Privacy Act (FERPA)*, 20 U.S.C. § 1232g (1974)
- 10 **2.3** Title IX of the *Higher Education Amendments Act of 1972* (Title IX), 20 U.S.C. § 1681 to
11 1688 (1972)
- 12 **2.4** *Campus Sexual Violence Elimination Act (SaVE)*—Reauthorization of the *Violence against*
13 *Women Act of 2013* (VAWA), 34 U.S.C. § 12291 (2013)
- 14 **2.5** Title VII of the *Civil Rights Act of 1964* (Title VII), 42 U.S.C. § 2000e (1964)
- 15 **2.6** *Americans with Disabilities Act of 1990*, 42 U.S.C. § 12101 (1990) (as amended by Pub. L.
16 No. 101–336, 104 stat. 327)
- 17 **2.7** “Non-Discrimination on the Basis of Sex in Education Programs or Activities Receiving
18 Federal Financial Assistance,” 34 C.F.R. § 106.1 (1972)
- 19 **2.8** *Health Insurance Portability and Accountability Act (HIPAA)*, Pub. L. No. 104–191, 110
20 stat. 1936 (1996)



UTAH VALLEY UNIVERSITY Policies and Procedures

- 21 **2.9** *Confidential Communications for Institutional Advocacy Services Act*, Utah Code Ann.
22 § 53B-28-101, 302, and 304 (2017)
- 23 **2.10** *Child and Family Services*, Utah Code Ann. § 62A-4a-403 (2020)
- 24 **2.11** *Government Records Access and Management Act (GRAMA)*, Utah Code Ann. § 63G-2-101
25 et seq. (2008)
- 26 **2.12** *Governmental Immunity Act of Utah*, Utah Code Ann. § 63G-7-301 (2020)
- 27 **2.13** *Stalking*, Utah Code Ann. § 76-5-106.5 (2020)
- 28 **2.14** *Sexual Offenses*, Utah Code Ann. § 76-5-404 et seq. (2019)
- 29 **2.15** *Offenses Against the Family*, Utah Code Ann. § 76-7-102 (2019)
- 30 **2.16** *Cohabitant Abuse Procedures Act*, Utah Code Ann. § 77-36-1 et seq. (2020)
- 31 **2.17** *Rights of Crime Victims Act*, Utah Code Ann. § 77-38-1 et seq. (1994)
- 32 **2.18** Utah Board of Higher Education Policy R254 *Secure Area Hearing Rooms*
- 33 **2.19** Utah Board of Higher Education Policy R256 *Student Disciplinary Processes*
- 34 **2.20** UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*
- 35 **2.21** UVU Policy 541 *Student Code of Conduct*

3.0 DEFINITIONS

- 36 **3.1 Complainant, victim, or alleged victim:** For the purposes of this policy, an individual who
37 is alleged to be the victim of conduct that may constitute sexual harassment under this policy.
- 38 **3.2 Consent:** An affirmatively communicated willingness through words and/or actions to
39 participate in sexual activity. Consent is active, not passive, and silence, in and of itself, may not
40 be interpreted as consent. Consent must be given by all participating parties; must be clear,
41 knowing, and voluntary; and can be given only by someone who is 18 years of age or older and
42 is not mentally and/or physically incapacitated.
- 43 **3.3 Dating violence:** As defined in 34 U.S.C. § 12291(a)(10), dating violence means violence
44 committed by a person (1) who is or has been in a social relationship of a romantic or intimate
45 nature with the victim; and (2) where the existence of such a relationship shall be determined
46 based on a consideration of the following factors: (a) the length of the relationship; (b) the type
47 of relationship; and (c) the frequency of interaction between the persons involved in the
48 relationship.



UTAH VALLEY UNIVERSITY Policies and Procedures

49 **3.4 Domestic violence:** As defined in 34 U.S.C. § 12291(a)(8), domestic violence includes
50 felony or misdemeanor crimes of violence committed by (1) a current or former spouse, or
51 intimate partner of the victim; (2) a person with whom the victim shares a child in common; (3) a
52 person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate
53 partner; (4) a person similarly situated to a spouse of the victim under the domestic or family
54 violence laws of the jurisdiction receiving grant monies; or (5) any other person against an adult
55 or youth (ages 11–24) victim who is protected from that person’s acts under the domestic or
56 family violence laws of the jurisdiction.

57 **3.5 Education program or activity:** For the purposes of this policy, all operations of the
58 University, including locations, events, or circumstances over which UVU exercised substantial
59 control over both the respondent and the context in which the sexual harassment occurred.

60 **3.6 Formal complaint:** A document submitted by a complainant (or, in certain circumstances,
61 signed by the Title IX Coordinator) alleging sexual harassment against a respondent and
62 requesting that the University investigate an allegation of sexual harassment. This document may
63 be a physical document or an electronic submission (such as by electronic mail or through an
64 online portal provided for this purpose by the University) that contains the complainant’s
65 physical or digital signature or otherwise indicates that the complainant is the person filing the
66 formal complaint.

67 **3.7 Good faith:** An honest belief and purpose; absence of fraudulent or deceptive intent.

68 **3.8 Incapacitation:** The physical and/or mental inability to make informed, rational judgments.
69 Factors that could be indications of incapacitation include, but are not limited to, mental or
70 physical disability; lack of sleep; use of alcohol, drugs, or other substances, including illegal or
71 prescription medications; unconsciousness; blackout; or involuntary physical restraint. An
72 individual who is incapacitated cannot give consent to engage in sexual activity, and being
73 intoxicated by drugs or alcohol does not diminish one’s responsibility to obtain consent. The
74 factors to be considered when determining whether consent was given include whether the
75 respondent knew, or whether a reasonable person should have known, that the complainant was
76 incapacitated.

77 **3.9 Party:** Complainant or respondent.

78 **3.10 Preponderance of the evidence:** The evidentiary standard used under this policy to
79 determine if sexual harassment occurred. Preponderance of the evidence means it is more likely
80 than not, or more than 50 percent in favor, that sexual harassment occurred.

81 **3.11 Respondent:** For the purposes of this policy, an individual who has been reported to be the
82 perpetrator of conduct that could constitute sexual harassment under this policy.

83 **3.12 Retaliation:** For the purposes of this policy, intimidation, threats, coercion, or
84 discrimination against any individual for the purpose of interfering with any right or privilege



UTAH VALLEY UNIVERSITY Policies and Procedures

85 secured by Title IX or this policy, or because the individual has made a report or complaint,
86 testified, assisted, or participated (or refused to participate) in any manner in an investigation,
87 proceeding, or hearing under this policy.

88 **3.13 Sex discrimination:** For purposes of this policy, treating someone differently on the basis
89 of actual or perceived sex, sexual orientation, gender identity, gender expression, pregnancy, or
90 pregnancy-related conditions (collectively “sex”) when (1) that conduct adversely affects a term
91 or condition of employment (e.g., compensation, benefits, duties, position classification, etc.),
92 education, or participation in a UVU program, activity, or service; or (2) a person’s sex serves as
93 the basis or motivating factor in a decision adversely affecting the terms or conditions of
94 employment, education, or participation in a UVU program, activity, or service.

95 **3.14 Sexual assault:** As defined in 20 U.S.C. § 1092(f)(6)(A)(v) and the uniform crime
96 reporting system of the Federal Bureau of Investigation, sexual assault means any sexual act
97 directed against another person without the consent of the victim, including instances in which
98 the victim is incapable of giving consent; and also unlawful sexual intercourse, including the
99 following:

100 **3.14.1 Rape**—Any penetration, no matter how slight, of the vagina or anus with any body part or
101 object, or oral penetration by a sex organ of another person, without the consent of the victim.

102 **3.14.2 Sodomy**—Oral or anal sexual intercourse with another person without the consent of the
103 victim.

104 **3.14.3 Sexual assault with an object**—To use an object or instrument to unlawfully penetrate,
105 however slightly, the genital or anal opening of the body of another person without the consent
106 of the victim.

107 **3.14.4 Fondling**—The touching of the private body parts of another person for the purpose of
108 sexual gratification without the consent of the victim.

109 **3.14.5 Incest**—Nonforcible sexual intercourse between persons who are related to each other
110 within the degrees wherein marriage is prohibited by Utah law.

111 **3.14.6 Statutory Rape**—Nonforcible sexual intercourse with a person who is under Utah’s
112 statutory age of consent.

113 **3.15 Sexual harassment:** Prohibited verbal or nonverbal conduct on the basis of sex (including
114 sex, pregnancy, pregnancy-related conditions, sexual orientation, gender identity, or gender
115 expression). Under Title IX, the following types of conduct constitute sexual harassment and are
116 prohibited under this policy:

117 **3.15.1** Any instance in which an employee of the University conditions the provision of an aid,
118 benefit, or service of UVU on an individual’s participation in unwelcome sexual conduct;



UTAH VALLEY UNIVERSITY Policies and Procedures

119 **3.15.2** Any unwelcome conduct that a reasonable person would determine to be so severe,
120 pervasive, and objectively offensive that it effectively denies a person equal access to a UVU
121 education program or activity; and

122 **3.15.3** Any instance of (1) sexual assault, as defined in 20 U.S.C. § 1092(f)(6)(A)(v) and section
123 3.14 of this policy; (2) dating violence, as defined in 34 U.S.C. § 12291(a)(10) and section 3.3 of
124 this policy; (3) domestic violence, as defined in 34 U.S.C. § 12291(a)(8) and section 3.4 of this
125 policy; or (4) stalking, as defined in 34 U.S.C. § 12291(a)(30) and section 3.16 of this policy.

126 **3.16 Stalking:** As defined in 34 U.S.C. § 12291(a)(30), stalking means engaging in a course of
127 conduct (multiple incidents) directed at a specific person, on the basis of sex, that would cause a
128 reasonable person to (1) fear for their safety or the safety of others; or (2) suffer substantial
129 emotional distress.

130 **3.17 Supportive measures:** Non-disciplinary, non-punitive individualized services offered as
131 appropriate, as reasonably available, and without fee or charge, to the complainant or the
132 respondent before or after the filing of a formal complaint or where no formal complaint has
133 been filed. Such measures are designed to restore or preserve equal access to UVU's education
134 program or activity without unreasonably burdening the other party, including measures
135 designed to protect the safety of all parties or the University's educational environment or deter
136 harassment. Supportive measures may include counseling; extensions of deadlines or other
137 course-related adjustments; modifications of work or class schedules; campus escort services;
138 mutual restrictions on contact between the parties; changes in work or housing locations; leaves
139 of absence; increased security and monitoring of certain areas of the campus; and other similar
140 measures.

141 **3.18 Title IX Coordinator:** The UVU employee designated and authorized by the President of
142 the University to coordinate the University's compliance with 34 C.F.R. § 106.1.

4.0 POLICY

143 **4.1 Scope of Policy**

144 **4.1.1** This policy applies to all university community members, including all persons employed
145 by or affiliated with Utah Valley University in any way and persons participating in any UVU
146 education program or activity, including but not limited to trustees, administrators, faculty, staff,
147 students, independent contractors, volunteers, and visitors to any UVU campus or any property
148 owned or leased by the University.

149 **4.2 Policy Statement**

150 **4.2.1** Utah Valley University does not discriminate on the basis of sex in its education programs
151 or activities, as required by Title IX and 34 C.F.R. § 106.1. The requirement not to discriminate
152 in education programs or activities extends to admission and employment. Inquiries about the



UTAH VALLEY UNIVERSITY Policies and Procedures

153 application of Title IX and its regulations to Utah Valley University may be referred to the Title
154 IX Coordinator, to the U.S. Department of Education Office for Civil Rights, or both.

155 **4.2.2** Utah Valley University prohibits sex discrimination, sexual harassment, and retaliation as
156 defined in this policy.

157 **4.2.3** This policy establishes processes to facilitate equity and legal compliance.

158 **4.3 Relationship to Policy 165 and Other Policies**

159 **4.3.1** This policy defines and prohibits sex discrimination, sexual harassment, and retaliation.

160 **4.3.1.1** *Sex discrimination*—Complaints of sex discrimination (other than sexual harassment as
161 defined in this policy) will generally be handled in accordance with the procedures in Policy 165
162 *Discrimination, Harassment, and Affirmative Action*.

163 **4.3.1.2** *Sexual harassment*—Complaints of sexual harassment as defined in this policy will be
164 handled in accordance with the procedures outlined in this policy. When, in the Title IX
165 Coordinator’s judgment, allegations of sexual harassment may also constitute sex-based
166 harassment as defined in Policy 165 *Discrimination, Harassment, and Affirmative Action* the
167 allegations will be consolidated and handled in accordance with the procedures in this policy.

168 **4.3.1.3** *Retaliation*—Complaints of retaliation will generally be handled in accordance with the
169 procedures in Policy 165 *Discrimination, Harassment, and Affirmative Action*.

170 **4.3.2** The Title IX Coordinator may consolidate alleged retaliation, sex discrimination, or
171 conduct prohibited by other policies with a formal complaint of sexual harassment under this
172 policy so long as those non-Title IX allegations arise out of the same facts or circumstances as
173 the alleged Title IX sexual harassment.

174 **4.3.3** To the extent that any other UVU policy addresses sex discrimination, sexual harassment,
175 or retaliation as defined in this policy, this policy and its procedures exclusively govern. All
176 other protected-class discrimination, harassment, and retaliation complaints are subject to the
177 procedures set forth in UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*.

178 **4.3.4** Nothing in this policy shall be interpreted to alter the status of otherwise at-will employees.

179 **4.4 Consent**

180 **4.4.1** All participants in the sexual activity are responsible for ensuring that they have the
181 consent of all involved to engage in sexual activity. Any individual who engages in sexual
182 activity without receiving clear, knowing, and voluntary consent, or who forces a party that has
183 withdrawn consent at any point to participate, has violated this policy. Sexual activity with
184 someone deemed unable to grant clear, knowing, and voluntary consent constitutes a violation of
185 this policy. This includes, but is not limited to, individuals who are:



UTAH VALLEY UNIVERSITY Policies and Procedures

186 1) Mentally or physically incapacitated for any reason;

187 2) Under the age of 18; or

188 3) Forced to give consent in any way, including, but not limited to, by coercion, intimidation,
189 duress, deception, threats, implied threats, and/or physical force.

190 **4.4.2** Consent to any one form of sexual activity does not automatically imply consent to any
191 other forms of sexual activity.

192 **4.4.3** Past consent to sexual activity does not imply ongoing future consent. The current or past
193 existence of a relationship does not imply consent.

194 **4.4.4** A respondent's position or use of authority is a factor in determining consent, coercion, or
195 "welcomeness" of conduct.

196 **4.5 Retaliation**

197 **4.5.1** Neither the University nor any person may intimidate, threaten, coerce, or discriminate
198 against any individual for the purpose of interfering with any right or privilege secured by Title
199 IX or this policy, or because the individual has made a report or complaint, testified, assisted, or
200 participated (or refused to participate) in any manner in an investigation, proceeding, or hearing
201 under this policy.

202 **4.5.2** Allegations of policy violations against an individual for the purpose of interfering with
203 any right or privilege secured by Title IX or this policy constitutes retaliation.

204 **4.5.3** Any retaliatory threat or act of violence against victims or witnesses of alleged sexual
205 violence is a third-degree felony under Utah Code Ann. § 53B-28-304 and may be subject to
206 criminal prosecution.

207 **4.5.4** Complaints alleging retaliation may be filed according to the procedures under Policy 165
208 *Discrimination, Harassment, and Affirmative Action*.

209 **4.6 Title IX Notification**

210 **4.6.1** The University notifies applicants for admission or employment, students, and employees
211 of the following:

212 1) The name, office address, e-mail address, and telephone number of the Title IX Coordinator;
213 and

214 2) A nondiscrimination policy statement consistent with section 4.2.1 of this policy and the
215 University's procedures for responding to complaints, including how to report or file a complaint



UTAH VALLEY UNIVERSITY Policies and Procedures

216 of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the
217 University will respond.

218 **4.6.2** The University prominently displays the contact information and policy statement
219 described above on its website and in each handbook and catalog that it makes available to
220 students, employees, and applicants for admission and employment.

221 **4.7 Reporting**

222 **4.7.1 Amnesty**

223 **4.7.1.1** Any student who makes a good faith report of sexual harassment or sexual violence, as
224 defined at Utah Code Ann. § 53B-28-301, that was directed at them or another person will not be
225 sanctioned by the University under Policy 541 *Student Code of Conduct* for a violation related to
226 the use of drugs or alcohol that the University discovers because of the report.

227 **4.7.2 How to Report**

228 **4.7.2.1** Any person may report sex discrimination, including sexual harassment (whether or not
229 the person reporting is the person alleged to be the victim of conduct that could constitute sex
230 discrimination or sexual harassment), to the Title IX Coordinator using any of the following
231 methods:

232 1) In person at the Browning Administration Building, Suite 203, 800 W. University Parkway,
233 Orem, UT 84058 (M–F, 8 a.m. to 5 p.m.);

234 2) By mail to Utah Valley University, MS 272, 800 W. University Parkway, Orem, UT 84058
235 (any time);

236 3) By telephone at 801-863-7999 (any time);

237 4) By e-mail at TitleIX@uvu.edu (any time);

238 5) Online, anonymously or self-identified, at www.uvu.edu/equalopportunity/titleix (any time);
239 or

240 6) By any other means that results in the Title IX Coordinator receiving the person’s oral or
241 written report.

242 **4.7.3 Who Must Report**

243 **4.7.3.1** Employees who receive a complaint of sex discrimination, sexual harassment, or
244 retaliation, or who witness or become aware of such conduct, must promptly report such issues
245 to the Title IX Coordinator within 24 hours of learning of the incident using any of the contact
246 methods listed above in section 4.7.2.



UTAH VALLEY UNIVERSITY Policies and Procedures

247 **4.7.3.2** Consistent with Utah Code Ann. § 62A-4a-403, anyone who reasonably suspects any
248 incident of sexual harassment or abuse involving a minor shall immediately report it to campus
249 police or the local police department. Employees who become aware of allegations involving a
250 minor shall notify the Title IX Coordinator and their supervisor that they have reported the
251 allegation to the police.

252 **4.7.4 Who Must Not Report**

253 **4.7.4.1** Licensed mental health counselors and medical professionals working within the scope of
254 their license, or designated advocates authorized by the Title IX Coordinator, generally may not
255 report incidents of sexual harassment, except with written consent from the client or patient, in
256 instances of imminent danger, or when the victim is a minor or vulnerable adult.

257 **4.8 Confidentiality**

258 **4.8.1** University employees participating in any capacity other than as complainant or respondent
259 in the process described in this policy must maintain as confidential any supportive measures
260 provided to the complainant or respondent, to the extent that maintaining such confidentiality
261 would not impair the University's ability to provide the supportive measures.

262 **4.8.2** University employees participating in any capacity other than as complainant or respondent
263 in the process described in this policy must keep confidential (1) the identity of any individual
264 who has made a report or complaint of sex discrimination, including any individual who has
265 made a report or filed a formal complaint of sexual harassment; (2) any complainant; (3) any
266 individual who has been reported to be the perpetrator of sex discrimination; (4) any respondent;
267 (5) and any witness; except as may be permitted by the federal *Family Educational Rights and*
268 *Privacy Act (FERPA)*; or as required by the *Utah Government Records and Management Act*
269 *(GRAMA)*, the federal *Health Information Portability and Accountability Act (HIPAA)*, or other
270 law; or to carry out the purposes of Title IX, including the conduct of any investigation, hearing,
271 or judicial proceeding arising under Title IX.

272 **4.8.3** Records created or maintained pursuant to this process are classified as protected under
273 *GRAMA*.

274 **4.8.4** The University will protect confidential communications to designated UVU advocates
275 authorized by the Title IX Coordinator, protected under the *Utah Confidential Communications*
276 *for Institutional Advocacy Services Act* (Utah Code Ann. § 53B-28-101), where disclosure is not
277 required by applicable federal law, including Title IX of the *Higher Education Amendments Act*
278 *of 1972*, Title VII of the *Civil Rights Act of 1964*, or the *Clery Act*, or consented in writing.

279 **4.8.5** The University will not restrict the ability of either party to discuss the allegations under
280 investigation or to gather and present relevant evidence. However,



UTAH VALLEY UNIVERSITY Policies and Procedures

281 a) Retaliation is prohibited. Attempts to alter or prevent a witness's or party's testimony are
282 forms of prohibited retaliation and potentially criminal conduct under Utah Code section 76-8-
283 508.

284 b) Parties may be directed to cease communications with one another (i.e. a "no-contact
285 directive").

286 c) Parties' communications remain subject to state laws protecting against defamation and
287 tortious invasions of privacy, such as intrusion upon seclusion, publication of private facts, and
288 false light claims.

289 **4.9 Referrals**

290 **4.9.1** The Title IX Coordinator may refer reports or complaints that are outside the scope of this
291 policy, but may implicate another policy, to the organizational unit (such as Student Conduct or
292 Human Resources) implementing the relevant policy.

293 **4.9.2** Information gathered in the investigative process under this policy, but which is relevant to
294 potential non-Title IX policy violations, may be shared with the organizational unit
295 implementing the relevant policy.

296 **4.9.3** The University complies with all applicable reporting requirements and reserves the right
297 to report findings of criminal misconduct to the police as required by law.

298 **4.10 Training**

299 **4.10.1** The University trains Title IX Coordinators, investigators, hearing panelists, and any
300 person who facilitates an informal resolution process on the definition of sexual harassment, the
301 scope of the University's education programs and activities, how to conduct the procedures
302 outlined in this policy (including live hearings, appeals, and informal resolution processes), and
303 how to serve impartially (including by avoiding prejudgment of the facts at issue, conflicts of
304 interest, and bias).

305 **4.10.2** The University trains hearing panelists to determine issues of relevance for questions and
306 evidence (including when questions and evidence about the complainant's sexual predisposition
307 or prior sexual behavior are not relevant), on evidentiary standards, and on live hearing
308 procedures.

309 **4.10.3** The University ensures that investigators receive training on issues of relevance and bias
310 to create investigative reports that fairly summarize relevant evidence.

311 **4.10.4** The University trains Title IX Coordinators, hearing officers, and other necessary parties
312 on all technology to be used in live hearings.



UTAH VALLEY UNIVERSITY Policies and Procedures

313 **4.10.5** The University ensures that training materials do not rely on sex, race, religious, and other
314 stereotypes and will promote impartial investigations and adjudications of formal complaints of
315 sexual harassment.

316 **4.10.6** All materials used to train Title IX Coordinators, investigators, hearing panelists, and any
317 person who facilitates an informal resolution process are publicly available on the University's
318 website.

319 **4.11 Recordkeeping**

320 **4.11.1** The Title IX Office maintains the following records for a period of seven years:

321 1) Each sexual harassment investigation, including any determination regarding responsibility,
322 any audio or audiovisual recording or transcript required by this policy, any disciplinary
323 sanctions imposed on the respondent, and any remedies provided to the complainant designed to
324 restore or preserve equal access to the University's education program or activity;

325 2) Any appeal and the result;

326 3) Any informal resolution and the result; and

327 4) All materials used to train Title IX Coordinators, investigators, hearing panelists, and any
328 person who facilitates an informal resolution process.

329 **4.11.2** For each report to the Title IX Coordinator of sexual harassment, the Title IX Office
330 creates and maintains, for a period of seven years, records of any actions, including any
331 supportive measures, taken in response to a report or formal complaint of sexual harassment. In
332 each instance, the Title IX Office documents the basis for its conclusion that its response was not
333 deliberately indifferent and documents that it has taken measures designed to restore or preserve
334 equal access to the University's education program or activity. If the University does not provide
335 a complainant or respondent with supportive measures, then the Title IX Office documents the
336 reasons why the determination to not provide supportive measures was not clearly unreasonable
337 in light of the known circumstances. The documentation of certain bases or measures does not
338 limit the University in the future from providing additional explanations or detailing additional
339 measures taken.

5.0 PROCEDURES

340 **5.1 Scope and Applicability of Procedures**

341 **5.1.1** All reports and formal complaints of sexual harassment, as defined in this policy, are
342 subject to the procedures set forth in this section. Reports and complaints of other forms of sex
343 discrimination and retaliation prohibited by this policy will follow the procedures in Policy 165
344 *Discrimination, Harassment, and Affirmative Action*.



UTAH VALLEY UNIVERSITY Policies and Procedures

345 **5.2 General Principles**

346 **5.2.1** Complainants, respondents, and witnesses shall be treated equitably and with respect
347 throughout all proceedings.

348 **5.2.1.1** Any persons designated as a Title IX Coordinator, investigator, or hearing panelist shall
349 be free of conflict of interest or bias for or against complainants or respondents, generally or
350 individually.

351 **5.2.2** The University will evaluate all relevant evidence—both inculpatory and exculpatory—
352 objectively and determine credibility without respect to a person’s status as complainant,
353 respondent, or witness.

354 **5.2.3** Respondents, complainants, and witnesses shall not knowingly make materially false
355 statements or knowingly submit materially false information. However, a determination
356 regarding responsibility alone is not sufficient to conclude that any individual proffered a
357 material falsehood.

358 **5.2.4** The University shall provide resources and options for supportive measures to both
359 complainants and respondents.

360 **5.2.5** Complainants, respondents, and other participants may at any time request
361 accommodations under the *Americans with Disabilities Act (ADA)* through the Title IX
362 Coordinator, who will refer the request to the appropriate ADA coordinator and implement
363 approved accommodations.

364 **5.3 Preliminary Review of Reports of Sexual Harassment**

365 **5.3.1 Response to Reports**

366 **5.3.1.1** Upon receiving a report of sexual harassment, the Title IX Coordinator or designee shall
367 promptly contact the complainant to (1) discuss the availability of supportive measures; (2)
368 consider the complainant’s wishes with respect to supportive measures; (3) inform the
369 complainant of the availability of supportive measures with or without the filing of a formal
370 complaint; and (4) explain the process for filing a formal complaint.

371 **5.3.2 Clery Reporting**

372 **5.3.2.1** The Title IX Coordinator shall assess the reported conduct for any Clery obligations in
373 coordination with appropriate personnel, including issuance of a timely warning and reports to
374 campus or local law enforcement when necessary.

375 **5.3.3 Safety Removal**



UTAH VALLEY UNIVERSITY

Policies and Procedures

376 **5.3.3.1** The Dean of Students may remove a student respondent from all or part of the
377 University's education programs or activities on an emergency, nondisciplinary basis, provided
378 that the UVU Behavior Assessment Team (1) undertakes an individualized safety and risk
379 analysis; (2) determines an immediate threat to the physical health or safety of any student,
380 employee, or other individual arising from the allegations of sexual harassment justifies removal;
381 and (3) provides the respondent with notice and an opportunity to challenge the determination
382 immediately following the removal.

383 **5.3.3.2** A supervising executive (such as the President, Provost, Vice President, Dean, or
384 Associate Vice President over the employee's primary university division), in consultation with
385 Human Resources and the Office of General Counsel, may place an employee on nondisciplinary
386 leave or establish restrictions on workplace locations or duties to mitigate identified risks. The
387 restrictions on workplace locations and duties must be as limited in scope (particular buildings,
388 offices, or contact from specific persons) as practicable to sufficiently mitigate the identified
389 risks. Any decision to put an employee on leave or impose restrictions shall be based on an
390 individualized determination in consideration of the best available evidence that the employee
391 (1) poses a credible, substantial risk of harm to individuals within the University or to the
392 university community as a whole; or (2) poses a credible, substantial risk of impeding the lawful
393 activities, the educational processes, or the proper activities or functions of other members of the
394 university community.

395 **5.4 Formal Complaint**

396 **5.4.1** A complainant may file a formal complaint alleging sexual harassment with the Title IX
397 Coordinator requesting that the University investigate. A formal complaint may be filed only by
398 a complainant who is participating in or attempting to participate in an education program or
399 activity of the University at the time of filing the formal complaint, or, in certain circumstances,
400 the Title IX Coordinator may sign a formal complaint on behalf of a complainant (as outlined in
401 section 5.4.4).

402 **5.4.2** A complainant may submit a formal complaint to the Title IX Coordinator in person, by
403 mail electronic mail, or online using the complaint form on the Title IX website by using the
404 contact information posted for the Title IX Coordinator in section 4.7.2.

405 **5.4.3** By filing a formal complaint, the complainant authorizes the Title IX Coordinator and
406 investigators to discuss the information provided by the complainant with other persons who
407 may have relevant factual knowledge of the circumstances of the complaint, and authorizes the
408 collection and examination of all records and other documentation relevant to the complaint.

409 **5.4.4** The Title IX Coordinator may independently initiate a formal complaint and investigation,
410 if necessary, to provide safe and nondiscriminatory education programs and activities, unless
411 doing so would be clearly unreasonable in light of the known circumstances. The Title IX
412 Coordinator may consider a variety of factors, including a pattern of alleged misconduct by the
413 particular respondent, in deciding whether to sign a formal complaint. When the Title IX



UTAH VALLEY UNIVERSITY Policies and Procedures

414 Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise
415 a party under this policy and must remain free of bias or conflict of interest with respect to any
416 party. In this situation, the complainant is treated as a party, though their right to not participate
417 is protected.

418 **5.4.5** The University may consolidate formal complaints against more than one respondent, or by
419 more than one complainant against one or more respondents, or by one party against the other
420 party, where the allegations of sexual harassment arise out of the same facts or circumstances.
421 The University may consolidate alleged conduct prohibited by other policies with a formal
422 complaint of sexual harassment so long as those non-Title IX allegations arise out of the same
423 facts or circumstances as the alleged instance of Title IX sexual harassment.

424 **5.4.6** Deadlines and timeframes in this policy may be extended for good cause by the Title IX
425 Coordinator by providing written notice including the reason(s) for the extension to the parties.
426 Good cause may include but is not limited to considerations such as the absence of a party, a
427 party's advisor, or witness; concurrent law enforcement activity; the need for language
428 assistance; or accommodations under section 5.2.5.

429 **5.4.6.1** A party may submit a request for a temporary delay or limited extension to the Title IX
430 Coordinator. Any request for temporary delay or limited extension shall include a good cause
431 statement and the reason(s) for the request. The Title IX Coordinator will consider the request
432 and notify the parties of any approved temporary delay or limited extension. If the Title IX
433 Coordinator determines no good cause exists to grant the temporary delay or limited extension,
434 the Title IX Coordinator will provide a written denial to the requesting party.

435 **5.4.7 Notice of Allegations**

436 **5.4.7.1** Upon receipt of a formal complaint, the Title IX Coordinator or designee shall provide
437 the following written notice to all known parties:

438 1) The University's procedures as outlined in this policy, including options for informal
439 resolution;

440 2) The allegations potentially constituting sexual harassment as defined in this policy and other
441 alleged policy violations consolidated in the formal complaint and included in the scope of the
442 investigation, including sufficient details known at the time, and allow sufficient time for parties
443 to prepare a response before any initial interview. Sufficient details include the identities of the
444 parties involved in the reported incident, if known, the alleged conduct, and the date and location
445 of the alleged incident, if known;

446 3) A statement that the respondent is presumed not responsible for the alleged conduct and that a
447 determination regarding responsibility will not be made until the conclusion of the process;



UTAH VALLEY UNIVERSITY Policies and Procedures

448 4) A notice that each party may choose to be accompanied by an advisor (who may be, but is not
449 required to be, an attorney) at all related meetings, investigative interviews, and/or hearings, and
450 who may inspect and review evidence before the conclusion of the investigation; and

451 5) A statement that knowingly making false statements or knowingly submitting false
452 information is prohibited by this policy.

453 **5.4.7.2** If, in the course of an investigation, the investigator decides to investigate additional
454 alleged policy violations pursuant to the complaint that are not included in the initial notice of
455 allegations provided, the Title IX Coordinator or designee must provide notice of the additional
456 allegations.

457 **5.4.8 Dismissal of the Formal Complaint**

458 **5.4.8.1** The University must investigate all allegations in a formal complaint according to the
459 procedures outlined in this policy unless the alleged conduct:

- 460 1) Would not constitute sexual harassment as defined in this policy, even if proved;
- 461 2) Did not occur in the University's education programs or activities; or
- 462 3) Did not occur in the United States.

463 **5.4.8.2** If the alleged conduct falls within the criteria outlined in section 5.4.8.1, the Title IX
464 Coordinator must dismiss the formal complaint with regard to that conduct for the purposes of
465 Title IX and this policy. Such dismissal does not prohibit investigation or action by the
466 University under another provision of UVU policy.

467 **5.4.8.3** The Title IX Coordinator may dismiss the formal complaint or any allegations if at any
468 time during the investigation or hearing:

- 469 1) A complainant notifies the Title IX Coordinator in writing that the complainant wants to
470 withdraw the formal complaint or any allegations therein;
- 471 2) The respondent is no longer enrolled at or employed by the University; or
- 472 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a
473 determination as to the formal complaint.

474 **5.4.8.4** Upon a required or permitted dismissal of the formal complaint, the Title IX Coordinator
475 or designee shall promptly send written notice of the dismissal and the reason(s) to the parties.

476 **5.4.8.5** Any party may appeal the dismissal of a formal complaint in accordance with section 5.9
477 of this policy.



UTAH VALLEY UNIVERSITY Policies and Procedures

478 **5.5 Informal Resolution**

479 **5.5.1** The University may offer an informal resolution process only after a formal complaint is
480 filed. Informal resolution may include a limited inquiry into the facts, but typically does not
481 include an investigation. Informal resolution shall be flexible enough to meet the needs of each
482 case and may include mediating an agreement between the parties, separating the parties,
483 referring the parties to counseling programs, conducting targeted preventive educational and
484 training programs, or providing remedies for the individual harmed by the offense.

485 **5.5.2** Participation by the parties in the informal resolution process is voluntary. The University
486 may not require either party to engage in informal resolution as a condition of enrollment or
487 employment or enjoyment of any other right, waiver of the right to investigation, and
488 adjudication of formal complaints of sexual harassment.

489 **5.5.3** The University is not obligated to offer or facilitate informal resolutions. Because each case
490 is different, the Title IX Coordinator shall determine whether a formal complaint of sexual
491 harassment is appropriate for informal resolution.

492 **5.5.4** The University may not offer or facilitate an informal resolution process to resolve
493 allegations that an employee sexually harassed a student.

494 **5.5.5** At any time before reaching a determination regarding responsibility, the Title IX
495 Coordinator or designee may facilitate an informal resolution process that does not involve a full
496 investigation and adjudication, provided that the Title IX Coordinator or designee obtains the
497 parties' voluntary, written consent to the informal resolution process and provides to the parties a
498 written notice disclosing the following:

499 1) The allegations;

500 2) The requirements of the informal resolution process, including the circumstances under which
501 it precludes the parties from resuming a formal complaint arising from the same allegations
502 (provided, however, that at any time before agreeing to a resolution, any party has the right to
503 withdraw from the informal resolution process and resume the formal process with respect to the
504 formal complaint); and

505 3) Any consequences resulting from participating in the informal resolution process, including
506 the records that will be maintained or may be shared.

507 **5.5.6** The Title IX Coordinator endeavors to conclude informal resolutions promptly and shall
508 keep a written record of all informal resolution efforts in accordance with section 4.11 of this
509 policy.

510 **5.5.7** After concluding informal resolution of a formal complaint, the Title IX Coordinator or
511 designee shall provide written notification to the parties of the resolution that was agreed upon.



UTAH VALLEY UNIVERSITY Policies and Procedures

512 **5.6 Formal Investigations**

513 **5.6.1** If the formal complaint of Title IX sexual harassment is not dismissed or resolved
514 informally, the Title IX Coordinator or designee shall conduct a thorough, impartial investigation
515 by interviewing witnesses, collecting documentary evidence, and preparing a written report of
516 findings. The purpose of the investigation is to establish whether, based on a preponderance of
517 the evidence, the alleged sexual harassment occurred.

518 **5.6.2** The Title IX Coordinator may refer any non-Title IX allegations in the formal complaint to
519 the appropriate office for resolution. Alternatively, the Title IX Coordinator may investigate any
520 non-Title IX allegations arising out the same facts or circumstances as the complaint of Title IX
521 sexual harassment when consolidated in the formal complaint according to section 5.4.5.

522 **5.6.3** The Title IX Coordinator shall choose the investigator, except in cases where the Title IX
523 Coordinator or others involved in the investigation have a conflict of interest, in which case the
524 University shall select an impartial internal or external investigator.

525 **5.6.4** Investigations under this policy shall incorporate the following standards:

526 1) The burden of proof and the burden of gathering evidence sufficient to reach a determination
527 rests on the University and not on the parties.

528 2) The University shall not access, consider, disclose, or otherwise use a party's records that are
529 made or maintained by a physician, psychiatrist, psychologist, or other recognized professional
530 or paraprofessional acting in their professional capacity, or assisting in that capacity, and which
531 are made and maintained in connection with the provision of treatment to the party, unless the
532 University obtains the party's voluntary, written consent for the purposes of this process.

533 3) The University shall presume the respondent is not responsible for the alleged conduct until a
534 determination regarding responsibility is made at the conclusion of the process.

535 4) The University shall provide an equal opportunity for the parties to present witnesses,
536 including fact and expert witnesses, and other inculpatory and exculpatory evidence.

537 5) Questions and evidence about the complainant's sexual predisposition or prior sexual
538 behavior are not relevant, unless such is presented to prove that someone other than the
539 respondent committed the conduct alleged by the complainant.

540 **5.6.5** Each party may choose to be accompanied by an advisor of their choice (who may be, but
541 is not required to be, an attorney) to any related meeting or proceeding. During the investigation,
542 the advisor may not disrupt meetings or other proceedings or communicate on behalf of the
543 party. Generally, the advisor is limited to listening and quietly conferring with the party. If an
544 advisor is disruptive even after warning, the investigator may exclude the advisor from the
545 meeting or reschedule the meeting. In cases of extreme or repeated disruptions, an advisor may



UTAH VALLEY UNIVERSITY Policies and Procedures

546 be excluded for the duration of the investigation and the party may be asked to procure an
547 alternate advisor.

548 **5.6.6** At any time before or during the investigation, the investigator may recommend that the
549 University provide support measures for the parties or witnesses. Any individual's intentional
550 interference with support measures may be considered retaliatory and a separate violation of this
551 policy.

552 **5.6.7** If either party fails or declines to participate in the investigation over a reasonable period of
553 time, the investigator may make findings without the response of that party, or the Title IX
554 Coordinator may dismiss the case according to section 5.4.8.3 of this policy.

555 **5.6.8** To each party whose participation is expected or invited, the University will provide
556 written notice of the date, time, location, participants, and purpose of investigative interviews or
557 other meetings, with sufficient time for each party to prepare to participate.

558 **5.6.9** If, at any point during the investigation, the investigator determines a need to investigate
559 allegations not included in the formal complaint, the Title IX Coordinator or designee must
560 provide notice of the additional allegations to the parties.

561 **5.6.10** Upon conclusion of the investigation, the investigator shall prepare a draft investigative
562 report that includes the following:

- 563 1) A summary of the complainant's allegations and the respondent's responses;
- 564 2) The relevant evidence;
- 565 3) The material witnesses supporting or opposing the allegation(s);
- 566 4) The preliminary recommended findings; and
- 567 5) A description of the procedural steps taken from the receipt of the formal complaint through
568 the recommended findings, including any notifications to the parties, interviews with the parties
569 and witnesses, and methods used to gather other evidence.

570 **5.6.11** Before the draft investigative report is finalized, investigators will give each party equal
571 opportunity to review the report and any evidence (whether inculpatory or exculpatory) obtained
572 as part of the investigation and directly related to the allegations in the formal complaint,
573 including evidence upon which the University does not intend to rely in reaching a determination
574 of responsibility. Access to the evidence will be provided for a sufficient duration of time to
575 allow each party to meaningfully respond to the evidence before the completion of the final
576 investigative report.

577 **5.6.12** The parties may submit a written response or additional information to the investigator
578 within 5 business days of the date of the notice of the opportunity to review the draft



UTAH VALLEY UNIVERSITY Policies and Procedures

579 investigative report and evidence. This is the parties’ final opportunity to submit any additional
580 information or witnesses. In the absence of good cause, the investigator shall not consider
581 information discoverable through the exercise of due diligence that is not provided to the
582 investigator at this juncture.

583 **5.6.12.1** The investigator shall consider any written response, information, or evidence provided
584 by the parties, and conduct any further fact-finding or revisions to the investigative report
585 deemed necessary.

586 **5.6.13** The investigator shall prepare a final investigative report that contains a statement of the
587 allegations, the positions/responses of each party, a summary of relevant evidence and material
588 witnesses that the investigator relied on, and recommended findings and determination.

589 **5.6.13.1** A recommended determination of “responsible” means that the investigator has found
590 that, based on a preponderance of the evidence, there is sufficient evidence to conclude that the
591 alleged sexual harassment occurred.

592 **5.6.13.2** A recommended determination of “not responsible” means that the investigator has
593 found that, based on a preponderance of the evidence, there is insufficient evidence to conclude
594 that the alleged sexual harassment occurred.

595 **5.6.13.3** At this stage, the investigator may recommend that the respondent was not responsible
596 for sexual harassment as defined in this policy, but—as it pertains to the same allegations and
597 evidence—is responsible for non-Title IX policy violations consolidated in the formal complaint
598 and considered under these procedures. In this case, the procedures for addressing such
599 violations will typically continue in accordance with the procedures in this policy.

600 **5.6.13.4** At any point after receiving a report or formal complaint, or upon discovery during the
601 investigation, the Title IX Coordinator may refer any potential non-Title IX policy violations to
602 the appropriate office for resolution.

603 **5.6.14** The final investigative report shall be submitted to the sanctioning official designated
604 below with authority to implement actions and/or discipline necessary to resolve the complaint
605 (unless a conflict of interest exists, in which case the next-level supervisor or their designee will
606 assign an alternate sanctioning official):

Respondent’s Affiliation with the University	Sanctioning Official
Student	Designated Student Conduct administrator within the Dean of Students Office
Faculty member	The dean or dean’s designee of the faculty member’s college (in consultation with the Deputy Provost)



UTAH VALLEY UNIVERSITY Policies and Procedures

Staff member	Supervising executive
Executive or direct report of the University President	University President or designee
Contractor, vendor, visitor, volunteers, etc.	Supervising executive, or the Vice President of Planning, Budget and Finance or designee

607 **5.6.15** The final investigative report may be used as evidence in other related proceedings, such
608 as subsequent complaints, disciplinary actions, hearings, or appeals.

609 **5.7 Sanctions and Remedies**

610 **5.7.1** Within 10 business days of receiving the final investigation report, the sanctioning official
611 shall recommend the appropriate sanctions and remedies based on the investigative report's
612 recommended findings and determinations. In consultation with the Title IX Coordinator and the
613 Office of General Counsel (and with Human Resources when the respondent is an employee),
614 the sanctioning official shall ensure any proposed sanctions and remedies are appropriate to end
615 the prohibited conduct, prevent further violations of this policy, and remedy the effects of any
616 violation.

617 **5.7.2** In recommending the appropriate sanction(s), the sanctioning official shall be guided by
618 the following considerations:

- 619 1) The severity, persistence, or pervasiveness of the policy violations;
- 620 2) The nature of violence in the sexual harassment and/or use of weapons, drugs, or alcohol (if
621 applicable);
- 622 3) The impact of the policy violations on the complainant;
- 623 4) The impact or implications of the policy violations on the university community;
- 624 5) Established prior misconduct by the respondent, including the respondent's relevant prior
625 disciplinary history;
- 626 6) Whether the respondent has accepted responsibility for the policy violations;
- 627 7) The maintenance of a safe, nondiscriminatory, and respectful working and learning
628 environment; and
- 629 8) Any other mitigating, aggravating, or compelling factors.

630 **5.7.3** Possible sanctions for being found responsible for conduct adjudicated under this policy
631 include the following:



UTAH VALLEY UNIVERSITY Policies and Procedures

632 **5.7.3.1 Employees**—Possible sanctions against employees for violations of this policy include
633 verbal counseling, written warning, probation, reassignment, transfer, demotion, reduction in
634 pay, suspension without pay, and termination of employment.

635 **5.7.3.2 Students**—Possible sanctions against students for violations of this policy include fines,
636 restitution, suspension, warning, probation, expulsion, withholding diploma, revocation of
637 certificate or degree, discretionary sanction, organizational sanction, and notation on the
638 student’s transcript consistent with the *Family Educational Rights and Privacy Act*.

639 **5.7.3.3 Vendors/Contractors/Visitors/Volunteers**—Possible sanctions against vendors or visitors
640 to campus who are neither students nor employees of the University for violations of this policy
641 include banning the individuals from all or part(s) of the University and/or ending business
642 relationships with the vendors and contractors.

643 **5.7.3.4** In addition to the above sanctions, the University may issue an order of no trespassing on
644 campus and/or in UVU programs, services, and activities.

645 **5.7.4** The sanctioning official or designee shall provide the respondent and the Title IX
646 Coordinator written notification of any recommended sanctions and remedies.

647 **5.7.5** The Title IX Coordinator shall send the final investigative report and additional guidance
648 on the next steps of the process to the parties. The final investigative report shall be provided to
649 the parties at least 10 business days before any hearing under this policy.

650 **5.7.6** Unless the allegations in the formal complaint are dismissed according to section 5.4.8,
651 referred to another process according to section 5.6.2, or informally resolved according to section
652 5.5, the case will proceed to a live hearing at which parties and witnesses may, but are not
653 required to, participate.

654 **5.8 Live Hearings**

655 **5.8.1 The Role of the University during Live Hearings**

656 **5.8.1.1** The University shall remain objective and impartial throughout the hearing process,
657 including impartially presenting the final investigative report to the hearing panel for an
658 independent determination regarding responsibility. The University is not a party to the live
659 hearing, but it shall be the University, not the parties, that bears the burden of producing
660 evidence through the final investigative report to the hearing panel.

661 **5.8.1.2** The University may establish a secure hearing room space and screen for firearms and
662 other dangerous weapons pursuant to Utah Board of Higher Education Policy R254 *Secure Area*
663 *Hearing Rooms*.

664 **5.8.2 Appointing a Hearing Panel and Hearing Officer**



UTAH VALLEY UNIVERSITY Policies and Procedures

665 **5.8.2.1** Upon receipt of the final investigation report and sanction recommendation, the Title IX
666 Coordinator or designee will appoint a hearing officer and hearing panelists. The Title IX
667 Coordinator and investigator(s) may not be the hearing officer or serve on the hearing panel.

668 **5.8.2.2** The Title IX Coordinator shall appoint a three-member hearing panel selected from a
669 pool of trained panelists. The hearing panel is responsible for objectively evaluating relevant
670 evidence and rendering an independent determination regarding responsibility based on a
671 preponderance of the evidence. The hearing panel shall not defer to the recommendation
672 determination(s) in the investigative report.

673 **5.8.2.3** If a party is a faculty member, and faculty members are available to train and serve on the
674 panel, the panel should comprise at least one faculty member. If a party is a staff member, and
675 staff members are available to train and serve on the panel, the panel should comprise at least
676 one staff member. If the respondent is a student, any combination of available trained faculty and
677 staff members may serve.

678 **5.8.2.4** Upon appointing a hearing officer and hearing panel, the Title IX Coordinator or
679 designee issues a notice of hearing, in either an electronic or hard copy format, to the parties and
680 the parties' advisors, if any. The notice of hearing shall contain (1) dates, deadlines, and
681 requirements appropriate for the orderly administration of the live hearing, to be held in person
682 or virtually; and (2) a statement informing the parties that the University must, upon either
683 party's request, provide for a live hearing where the parties are located in separate rooms with
684 technology enabling the hearing panel and the parties to simultaneously see and hear the party or
685 witness answering questions.

686 **5.8.3 Required Disclosures and Information Access**

687 **5.8.3.1** Each party shall disclose the identity of any person who will present expert opinion
688 evidence at the live hearing no later than 5 business days before the date of the hearing.

689 **5.8.3.2** Unless otherwise stipulated, this disclosure shall be accompanied by a written report
690 prepared and signed by the expert witness. The report shall contain (1) the subject matter on
691 which the expert is expected to testify; (2) the substance of the facts and opinions to which the
692 expert is expected to testify; (3) a summary of the grounds for each opinion; (4) and the
693 qualifications of the expert witness.

694 **5.8.3.3** The hearing officer may exclude expert testimony that they deem as not relevant.

695 **5.8.3.4** At least 5 business days before the hearing date, each party must provide to the hearing
696 officer any written statement responding to the final investigative report and a list of witnesses
697 and documents that they will be presenting to the hearing panel. At any time, the hearing panel
698 may also submit a list of requested witnesses to the hearing officer. The hearing officer will
699 ensure all parties and hearing panelists gain access to these disclosures no less than 3 business
700 days before the hearing.



UTAH VALLEY UNIVERSITY Policies and Procedures

701 **5.8.3.5** The hearing officer shall ensure that all evidence obtained as part of the investigation that
702 is directly related to the allegations is available at the hearing and shall give each party equal
703 opportunity to refer to such evidence during the hearing, including for purposes of cross-
704 examination.

705 **5.8.4 Advisors' Role During Live Hearings**

706 **5.8.4.1** Each party may be accompanied to the live hearing by an advisor of their choice. The
707 University will not limit the choice or presence of any party's advisor.

708 **5.8.4.2** A party's advisor may participate in the live hearing through asking the other party and
709 any witnesses all relevant questions and follow-up questions. The hearing officer may otherwise
710 establish restrictions regarding an advisor's participation, provided the restrictions apply equally
711 to both parties. The hearing officer shall restrict an advisor's participation in the hearing if the
712 advisor becomes unreasonably disruptive to the proceedings or fails to follow basic rules of
713 decorum established by the hearing officer.

714 **5.8.4.2.1** Cross-examination at the live hearing must be conducted directly, orally, and in real
715 time by a party's advisor and never by a party personally.

716 **5.8.4.3** Pursuant to Utah Board of Higher Education Policy R256, each party's advisor may also
717 present opening and closing statements.

718 **5.8.4.4** If a party does not have an advisor present at the live hearing, the University must
719 provide without fee or charge to that party, an advisor (who need not be an attorney) of the
720 University's choice to conduct cross-examination on behalf of that party.

721 **5.8.5 Hearing Officer and Hearing Panel Responsibilities**

722 **5.8.5.1** The hearing officer shall conduct the live hearing to obtain full disclosure of relevant
723 facts and to afford all parties reasonable opportunity to present their positions.

724 **5.8.5.2** The hearing officer shall exclude the following during live hearings:

725 1) Evidence that is irrelevant or unduly repetitious;

726 2) Irrelevant questions directed to a party or witness. Before a party or witness answers a cross-
727 examination or other question, the hearing officer must first determine whether the question is
728 relevant and explain any decision to exclude a question as not relevant;

729 3) Evidence privileged in the courts of Utah, unless the privilege at issue is specifically waived
730 by the parties; and



UTAH VALLEY UNIVERSITY Policies and Procedures

731 4) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior,
732 unless such is presented to prove that someone other than the respondent committed the conduct
733 alleged by the complainant.

734 **5.8.5.3** The hearing officer shall not exclude evidence solely because it is hearsay.

735 **5.8.5.4** The hearing officer shall afford each party's advisor the opportunity to conduct cross-
736 examination and offer opening and closing statements, but may otherwise limit advisors'
737 participation.

738 **5.8.5.4.1** The hearing panel must consider all relevant evidence, including relevant party or
739 witness statements, even if that party or witness does not appear at the hearing or is not subject to
740 cross-examination. The hearing panel must not draw an inference about responsibility based
741 solely on a party's or witness's absence from the live hearing or refusal to answer cross-
742 examination or other questions.

743 **5.8.5.5** The University shall create an audio or audiovisual recording of the hearing and shall
744 make the recording available to the parties for inspection and review upon request.

745 **5.8.5.6** The hearing may be conducted with parties physically present in the same geographical
746 location or virtually, at the Title IX Coordinator's discretion, provided that participants can
747 simultaneously see and hear each other.

748 **5.8.5.7** Nothing in this section precludes the hearing officer from taking appropriate measures
749 necessary to preserve basic decorum and the integrity of the hearing.

750 **5.8.5.8** Following the conclusion of the live hearing, the hearing panel will deliberate to
751 determine if the respondent is responsible and if sanctions, if any, are appropriate. If the hearing
752 panel determines the respondent is responsible, they shall consult with the sanctioning official to
753 obtain updated recommended sanctions. The hearing panel shall defer to the sanctioning
754 official's recommended sanctions unless it is clearly unreasonable in light of the evidence and
755 known circumstances.

756 **5.8.6 Written Determination**

757 **5.8.6.1** The hearing panel will provide the written determination simultaneously to the Title IX
758 Coordinator, the sanctioning official, and the parties within 20 business days after the live
759 hearing concludes. The written determination must include:

760 1) Identification of the allegations potentially constituting sexual harassment as defined in this
761 policy and other policy violations consolidated in the formal complaint, if applicable;

762 2) A description of the procedural steps taken from the receipt of the formal complaint through
763 the determination, including any notifications to the parties, interviews with the parties and
764 witnesses, site visits, methods used to gather other evidence, and hearings held;



UTAH VALLEY UNIVERSITY Policies and Procedures

- 765 3) Findings of fact supporting the determination;
- 766 4) Conclusions regarding the application of this policy to the facts;
- 767 5) A statement of, and rationale for, the result as to each allegation, including (a) a determination
768 regarding responsibility based on a preponderance of the evidence; (b) disciplinary sanctions
769 imposed on the respondent; and (c) whether the University will provide remedies designed to
770 restore or preserve equal access to the University's education program or activity to the
771 complainant; and
- 772 6) The University's procedures and permissible bases for the complainant and respondent to
773 appeal.

774 **5.8.6.2** The hearing panel may determine at this stage that the respondent is not responsible for
775 sexual harassment as defined in this policy, but—as it pertains to the same allegations and
776 evidence—is responsible for other policy violations consolidated in the formal complaint and
777 considered under these procedures. In this case, the procedures will continue according to this
778 policy, and the hearing panel will render a final determination according to this policy.

779 **5.8.6.3** A determination regarding responsibility and relevant sanctions, if any, becomes final
780 when either (1) the deadline for filing a written notice to appeal the determination, as outlined in
781 section 5.9, has passed without any party filing such notice; or (2) if appealed, on the date that
782 the parties receive the written determination of the result of the appeal following the procedures
783 in section 5.9.

784 **5.9 Appeals**

785 **5.9.1** Within 10 business days of written notification, any party may submit to the Title IX
786 Coordinator a written notice of intent to appeal (1) a hearing panel determination regarding
787 responsibility; or (2) the dismissal of any portion of a formal complaint by the Title IX
788 Coordinator.

789 **5.9.2** The appeal officer will consider a notice of intent to appeal only if the appeal officer
790 determines one or more of the following conditions are satisfied:

- 791 1) A procedural irregularity affected the outcome of the hearing;
- 792 2) New evidence that was not reasonably available at the time of the hearing or dismissal could
793 affect the outcome of the hearing or dismissal; or
- 794 3) The Title IX Coordinator, the investigators, or the hearing panel had a conflict of interest or
795 bias for or against the parties generally, or an individual complainant or respondent, that affected
796 the outcome.



UTAH VALLEY UNIVERSITY Policies and Procedures

797 **5.9.3** Within 5 business days of receiving a party’s written notice of intent to appeal, the Title IX
 798 Coordinator shall send to both parties (1) the contact information for the appeal officer who will
 799 decide the appeal, and (2) instructions on filing written statements with the appeal officer.

800 **5.9.4** The appeal officer shall be the Provost, appropriate vice president, or their designee. The
 801 appeal officer must be free of any bias or conflict of interest with respect to any party and must
 802 not have been the hearing officer, a member of the hearing panel, the Title IX Coordinator, or the
 803 investigator under this policy.

804 **5.9.5** The parties may submit a written statement to the appeal officer supporting or opposing the
 805 hearing panel’s written determination of responsibility.

806 **5.9.5.1** The appeal officer must receive any written statements within 10 business days of the
 807 Title IX Coordinator sending the notice to the parties.

808 **5.9.6** The appeal officer will review all written statements, reports, evidence, and recordings and
 809 make a final written determination within 20 business days.

810 **5.9.7** In cases where a hearing panel’s determination is appealed, the appeal officer’s final
 811 written determination may (1) uphold the hearing panel’s written determination(s) of
 812 responsibility; (2) modify the hearing panel’s written determination(s) of responsibility; or (3)
 813 reverse the hearing panel’s written determination(s) of responsibility.

814 **5.9.8** In cases where a Title IX Coordinator’s dismissal of a formal complaint is appealed, the
 815 appeal officer’s final written determination may (1) uphold the Title IX Coordinator’s dismissal,
 816 or (2) reverse the Title IX Coordinator’s dismissal. If the dismissal is reversed, the Title IX
 817 Coordinator shall proceed with the process described in this policy, beginning with the filing of a
 818 formal complaint.

819 **5.9.9** The appeal officer will issue the final written determination to both parties providing a
 820 detailed rationale for the appeal officer’s determination.

821 **5.9.9.1** The appeal officer’s final written determination is final; no further internal university
 822 reviews, appeals, or grievances are available to the parties.

POLICY HISTORY		
June 22, 2017	Limited Scope changes approved.	UVU Board of Trustees
March 2018	Non-substantive changes: <ul style="list-style-type: none"> • Policy 115 renumbered to 704 • Policy 407 renumbered to 710 	UVU Board of Trustees
November 29, 2018	Non-substantive changes: In sections 2.0 and 5.10.2, updated Policy 541 from <i>Student Rights and</i>	UVU Policy Office



UTAH VALLEY UNIVERSITY

Policies and Procedures

	<i>Responsibilities to Student Code of Conduct.</i>	
June 18, 2019	Temporary Emergency	UVU Board of Trustees
July 31, 2018	Non-substantive changes: Updated “Senior Vice President of Academic Affairs” to “Provost”	UVU Policy Office
March 25, 2020	Under a newly approved section of Policy 101 and due to the COVID-19 situation, all currently established Temporary Emergency policies have been extended six months beyond their original expiration date. This policy will now expire December 18, 2020.	UVU Board of Trustees
August 7, 2020	Revised, temporary emergency policy approved to address new Title IX regulations.	UVU Board of Trustees
June 24, 2021	Revised policy approved through the regular policy process.	UVU Board of Trustees
July 14, 2022	Policy revised through compliance change process.	UVU Office of General Counsel

July 14, 2022