

# Neumann University

## Title IX Training for Implementers

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# Agenda

- **2020 Title IX Regulatory Framework**
- **Role of Title IX Coordinator**
- **Neumann University's Title IX Sexual Harassment and Community Standards Sexual Misconduct Policy and Procedures**
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- **Formal Complaint and Resolution Process**
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# 2020 Title IX Regulatory Framework

**“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”**

- Education Amendments of 1972 (20 U.S.C.A. § 1681)
- Protects against sex-based discrimination at any school that receives federal funding
- Applies to both students and employees

# Current Regulations (34 CFR Part 106)

- Title IX regulations codified at 34 CFR Part 106 (amended in 2020); enforced by Office of Civil Rights (“OCR”)
- 2020 Regs set forth minimum steps that the university must take in responding to sexual harassment
- Regs cover sexual harassment that:
- WHAT: (1) quid pro quo sexual harassment, (2) unwelcomed sexual conduct that is so severe, pervasive and objectively offensive that it effectively denies equal access to the institution’s programs or activities (*Davis v. Monroe Cnty. Bd. Of Ed.* case), (3) sexual assault, dating and domestic violence, stalking (as defined in the statutes) (Clery Act/VAWA)
- WHERE: Occurs in
  - Building or other locations that are part of the school’s operations;
  - Off-campus settings if the school exercised substantial control over the respondent and the context in which the alleged sexual harassment occurred; or
  - Off-campus building owned or controlled by an officially recognized student organization (such as a fraternity or sorority).
  - **And**, must be in the U.S. (not study abroad)
  - **But**, no distinction between online or in person
- Must dismiss complaint, for Title IX purposes, if not within jurisdictional definition, but nothing in the regs prohibits a university from addressing misconduct outside of the scope of Title IX

# Current Regulations (continued)

- **Informal resolution permitted**
- **Narrow option for emergency removals**
- **Hearing**
  - Cross-examination must be conducted by advisors
  - Decision-makers must make relevance decisions
- **Appeals – mandatory and bilateral**
  - Procedural irregularities that affected the outcome
  - New evidence not reasonably available at the time of determination that could affect the outcome
  - Bias of the Title IX Coordinator, investigator or decision-maker
- **2022 Proposed Amendments\***
  - Anticipated October 2023
  - Among other things, clarifies protections against discrimination based on sex apply to sexual orientation/gender identity; eliminates live hearing requirement (single-investigator model); eliminates cross-examination requirement; requires preponderance of the evidence standard (can't choose clear and convincing evidence standard)

# Role of Title IX Coordinators

# Title IX Co-Coordinators

*“The Title IX coordinator has a responsibility to coordinate the recipient’s efforts to comply with its obligations under Title IX and the Title IX regulations. These responsibilities include coordinating any investigations of complaints received pursuant to Title IX and the implementing regulations.” – US Dep’t of Justice*

- Intake and coordination of investigations, hearings and appeals
- Coordinate training of those involved in Title IX process (investigators, adjudicators, etc.)
- Coordinate preventative programming and education for community, including as required by VAWA
- Maintain appropriate records
  - Importance of privacy and confidentiality



# Neumann University's Title IX Sexual Harassment and Community Standards Sexual Misconduct Policy and Procedures

# Definitions – Prohibited Conduct

## Prohibited Conduct = Title IX Sexual Harassment and Community Standards Sexual Misconduct

### (1) Title IX Sexual Harassment:

NOTE: Includes both definitional and jurisdictional components.

Definitional. Conduct on the basis of sex that involves an employee of Neumann conditioning the provision of an aid, benefit, or service of Neumann on an individual's participation in unwelcome sexual conduct ("quid pro quo"); or an individual engaging in unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to Neumann's education program or activity. Title IX Sexual Harassment also includes:

- Title IX Sexual Assault
- Title IX Dating Violence
- Title IX Domestic Violence
- Title IX Stalking

# Definitions – Prohibited Conduct

**Title IX Sexual Assault:** Any of the following –

- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the alleged victim.
- The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the alleged victim.
- Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Non-forcible sexual intercourse with a person who is under the statutory age of consent.

## Definitions – Prohibited Conduct

**Title IX Dating Violence:** Violence, including sexual or physical abuse or the threat of such abuse, committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the alleged 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.

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

# Definitions – Prohibited Conduct

**Title IX Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

For purposes of this definition:

- *Course of conduct* means two or more acts, including, but not limited to, acts in which the alleged stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim; and
- *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

# Definitions – Prohibited Conduct

## But, must meet Title IX jurisdictional requirements:

In order to constitute Title IX Sexual Harassment, the alleged misconduct must have occurred:

- In the United States, and
- In Neumann's education program or activity, which is defined as locations, events or circumstances over which Neumann exercised substantial control over both Respondent and the context in which the misconduct occurred, or any building owned or controlled by a student organization officially recognized by Neumann.

## Definitions – Additional Prohibited Conduct

**(2) Community Standards Sexual Misconduct:** An umbrella term encompassing a range of behaviors, where such conduct is alleged to be by an individual or University recognized group and does not constitute Title IX Sexual Harassment, but that (a) has continuing adverse effects on or creates a hostile environment for individuals participating or attempting to participate in Neumann University's education program or activity, or otherwise has a reasonable connection to Neumann University; and (b) constitutes one of the following:

- Community Standards Sex Discrimination
- Community Standards Sexual Harassment
- Community Standards Gender Based Harassment
- Community Standards Sexual Assault
- Community Standards Dating Violence
- Community Standards Domestic Violence
- Community Standards Stalking

# Community Standards Sexual Misconduct

- Expressly defined in the policy pages 2-4:  
<https://explore.neumann.edu/hubfs/Title%20IX%20Sexual%20Harassment%20and%20Community%20Standards%20Sexual%20Misconduct%20Policy.pdf?hsLang=en>
- E.g., community standards sexual harassment defined with the same as severe, pervasive offensive language, but gender-based harassment is much broader.
  - Community standards sexual harassment: “Conduct on the basis of sex that involves an employee of Neumann University conditioning the provision of an aid, benefit, or service of Neumann University on an individual’s participation in unwelcome sexual conduct; or an individual engaging in ***unwelcome conduct determined by a reasonable person to be so severe, pervasive or objectively offensive*** that it effectively denies a person equal access to Neumann University’s education program or activity”
  - Gender based harassment: “Unwelcome conduct (whether or not of a sexual nature), including acts of aggression, intimidation and hostility, and other verbal, nonverbal, graphic, or physical conduct based on or motivated by a student’s actual or perceived gender, sexual orientation, gender identity, gender expression, or nonconformity with gender stereotypes.”
- Importance of understanding definitions.



# Consent

**A person who wants to engage in a specific sexual activity is responsible for obtaining Consent.**

- Silence or lack of resistance, in and of itself, does not constitute Consent.
- Consent can be given by words or actions.
- Consent cannot be obtained through coercion (*i.e.*, the use of threats or intimidation) that would cause a reasonable person to engage in unwelcome sexual activity against their will.

## Consent (continued)

**Consent cannot be obtained from an individual who is incapacitated, where a reasonable, sober person initiating sexual activity would have known or reasonably should have known that the individual was incapacitated.**

- An individual who is under the influence of alcohol and/or other drugs may be incapacitated, but consumption of alcohol or other drugs alone is insufficient to establish incapacitation.
  - Incapacitation is a state beyond drunkenness or intoxication, where an individual cannot make a knowing and deliberate choice to engage in the sexual activity.
  - Individuals who are asleep, unresponsive or unconscious are incapacitated. Other indicators that an individual may be incapacitated include: inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical or cognitive tasks without assistance.
  - An individual also may be incapacitated due to a temporary or permanent physical or mental health condition.
- Consent may be withdrawn by any party at any time and is automatically withdrawn when a party is no longer capable of consenting.

# Reporting Potential Prohibited Conduct

## **Anonymous Reporting** (via <https://www.neumann.edu/titlenine/>)

Ability to respond may be limited by information provided

## **Reports to Authorized and Responsible Employees**

A disclosure or report of Prohibited Conduct made to an Authorized Employee (regardless of whether the disclosure is made by the Complainant or a third party):

- Constitutes a report to Neumann (*i.e.*, actual knowledge), triggering a response under this Policy.
- Must be promptly reported to the Title IX Coordinator.
- Authorized Employees are: Title IX Co-Coordinators which are the Vice President for Human Resources and Risk Management and the Dean of Students; University Vice Presidents; Deans of the Academic Schools

## Reporting Potential Prohibited Conduct (continued)

A disclosure or report of Prohibited Conduct made to a Responsible Employee (regardless of whether the disclosure is made by the Complainant or a third party):

- Does not constitute a report to Neumann (i.e., is not “actual knowledge”) triggering a response under this Policy.
- However, Neumann still requires, as a matter of policy, to promptly report to the Title IX Coordinator.
- With limited exceptions, Neumann designated all employees, including faculty adjunct and visiting faculty, administrators, staff, and student-employees (e.g., Resident Assistants) as Responsible Employees.

# Supportive Measures

## What are supportive measures?

Non-disciplinary, non-punitive individualized services that may be provided to Complainants or Respondents, either upon request (when deemed by the Title IX Coordinator to be appropriate and reasonably available) or at the initiative and in the sole discretion of the Title IX Coordinator.

*Examples:* access to counseling services, modification of class schedules, “no contact orders” etc.

## What is the purpose of supportive measures?

To restore or preserve equal access to Neumann’s educational programs and activities, without unreasonably burdening the other party.

## When are supportive measures available?

Beginning at any time after the submission of a report of Prohibited Conduct.

**\*Must always offer!**

# Emergency Removals

If at any point following the receipt of a report of Prohibited Conduct, Neumann determines that the Respondent poses an immediate threat to the physical health or safety of the Complainant or any other person(s), including the Respondent, Neumann may temporarily remove the Respondent from any or all of its programs or activities.

- Before imposing an emergency removal, Neumann's Threat Assessment Team ("TAT") will undertake an individualized safety and risk analysis.
- Emergency removal will be imposed only if the TAT concludes that the threat to physical health or safety arises from the allegations of Prohibited Conduct and warrants removal.
- Respondent may appeal the removal.
- Non-punitive actions taken as Supportive Measures do not constitute an emergency removal.

# Formal Complaint and Resolution Process

# Formal Complaint

## What is a Formal Complaint?

A document submitted by a Complainant and bearing the Complainant's physical or digital signature, or otherwise indicating that the Complainant is the one filing the Formal Complaint, requesting that the University investigate allegations that may constitute Title IX Sexual Harassment.

- The Title IX Coordinator also may sign a Formal Complaint, but does not become the Complainant by doing so.
- In order to file a Formal Complaint for Title IX Sexual Harassment, a Complainant must be participating in or attempting to participate in the University's education program or activity at the time a Formal Complaint is filed.
- No time limit to file.

***Resolution of Complaints Involving Community Standards Sexual Misconduct Is Handled Separately Under Different Set of Policies, Either SA 4.02 or IP 1.03.***



# Formal Complaints – Notice of Allegations

**Upon the submission of a Formal Complaint, the Title IX Coordinator will provide written notice to the parties, including the following:**

- Copy of Neumann’s Policy.
- Notice of the allegations of conduct that may constitute Prohibited Conduct, with sufficient detail for the Respondent to prepare a response before any initial interview.
- The presumption that the Respondent is not responsible for the alleged Prohibited Conduct unless a determination of responsibility is reached at the conclusion of the Formal Resolution Process.
- Notice of the Parties’ entitlement to an Advisor of choice.
- The identity of the Investigator.
- Notice that the Parties may inspect and review evidence gathered during the investigation.
- Notice that the University’s policies prohibit knowingly making false statements or knowingly submitting false information.

**Update notice of allegations throughout investigation, if necessary.**

# Mandatory and Discretionary Dismissals by Title IX Coordinator

## **Mandatory Dismissal for purposes of Title IX Sexual Harassment:**

- Even if proved, the alleged misconduct would not constitute Title IX Sexual Harassment;
- The alleged misconduct did not occur in the University's education program or activity; or
- The alleged misconduct did not occur in the United States.

## **Discretionary Dismissal for purposes of Title IX Sexual Harassment:**

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

**Dismissal is subject to appeal (within 3 days of notice of dismissal)**

**BUT, the formal complaint may proceed under separate procedures as a possible Community Standards Sexual Misconduct (this decision is not subject to appeal)**

# Informal Resolution

## Available only when:

- Formal Complaint has been filed;
- Parties agree (in writing) – and the Title IX Coordinator agrees – to use informal resolution (completely voluntary); and
- Formal Complaint does not allege Title IX Sexual Harassment of a student by an employee.

**Prior to initiating Informal Resolution, the Title IX Coordinator will provide the parties with written notice disclosing the allegations, the requirements of the process, the right to withdraw from Informal Resolution to pursue formal resolution, the permitted use of any information exchanged in the Informal Resolution, and any consequences of participation (e.g., as it relates to any subsequent formal resolution if Informal Resolution is not achieved).**

## Types:

- Mediation (no requirement for admission of responsibility)
- Restorative Justice (requires admission of responsibility)

## Informal Resolution (continued)

- Informal Resolution can be commenced at any point prior to the conclusion of a Hearing and may be terminated by the Complainant, Respondent, Title IX Coordinator or Facilitator at any time prior to its completion. If Informal Resolution is terminated, the Formal Resolution Process will promptly commence or resume, as appropriate.
- Documents and other information produced or exchanged during the Informal Resolution **can** be used in the Formal Resolution Process and the Informal Resolution Facilitator may serve as a witness.
- The outcome of the Informal Resolution will be documented in an agreement or other form that is signed by both the Complainant and the Respondent. The outcome of Informal Resolution will be taken into consideration in the event of future findings of responsibility for Prohibited Conduct or other violations of the Institution's policies.

# Conducting the Investigation

**Neumann strives to resolve Formal Complaints within 90 calendar days of the Formal Complaint.**

**Either party may object to the Investigator on the grounds of conflict of interest or bias.**

**The Investigator will conduct an investigation of the allegations in the Formal Complaint, and is responsible for interviewing the parties and witnesses, and gathering relevant inculpatory and exculpatory evidence.**

- Parties will be provided with written notice of the date, time, location, participants and purpose of all investigative interviews in which they are expected to participate.
- Parties may be accompanied by an Advisor of their choice at any investigative interview.
- All parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, for the Investigator.
- The Investigator may not access, consider or use records that are made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to a party without that party's voluntary written consent.
- Investigator does not make factual findings, that is reserved for the Hearing.

# Role of the Investigator

## **An investigator must:**

Be objective and unbiased.

Be free of conflict of interest.

Avoid any prejudging of the parties or responsibility.

Take the lead in seeking evidence related to the allegations (inculpatory and exculpatory), because it is not the responsibility of the parties to investigate the matter.

**An investigator can be an employee or an external contractor, or the Title IX coordinator can serve as the Investigators.**

## Advisor of Choice v. Provided Advisor

- Party's Advisor may accompany them to all interviews, hearings, and other meetings held in connection with a Formal Complaint.
- Parties are responsible for identifying their own Advisor, if they wish to have one, **but** parties must have an Advisor for purposes of conducting cross-examination at a Hearing. If a Party has not identified an Advisor, Neumann will provide one for that limited purpose.
- Advisors may not speak aloud during any meeting, interview or hearing (except for cross-examination), but may confer with the individual whom they are advising quietly, by means of written notes or during brief recesses at the sole discretion of the Neumann representative conducting the meeting, interview or hearing.
- Advisor whose presence is deemed improperly disruptive or inconsistent with established rules of decorum will be required to leave and may be prohibited from participating in future proceedings.
- While Neumann may consider short delays in scheduling to reasonably accommodate an Advisor's availability, doing so is in the sole discretion of the Neumann representative responsible for the event.

# The Initial Interviews (Complainant and Respondent)

## **Before the interview:**

Provide sufficient notice.

Communicate the availability of supportive measures / resources.

Explain the right to an advisor.

Allow sufficient time.

## **At the start of the interview:**

Communicate the availability of supportive measures / resources.

Discuss policy and process.

Reiterate the role of the advisor.

Invite questions.



# Conducting the Interview: The Fundamentals

**Develop rapport with an open and conversational style.**

**Demonstrate respect.**

**Be alert to your non-verbal communications.**

**Avoid stereotypes and bias.**

**Explore areas of inquiry that can be corroborated.**

**Focus on sensory details.**

**Ask what the other might say.**

**Don't shy away from the uncomfortable questions.**

**Be OK with breaks and stretches of silence.**

**Have an open mind.**

# Conducting the Interview: The Funnel

**Start as general as possible – “tell me what happened.”**

**Refrain from interrupting the initial narrative with clarifying or follow up questions.**

**Continue to return to the narrative to get all details.**

**Use reflective listening.**

**Ask varied questions on the same topic.**

**Save tough or uncomfortable questions for later in the interview.**

**Avoid questions that imply a value judgment.**

**Question inconsistencies in a non-confrontational manner.**

**Be persistent and thorough.**



# Conducting the Interview: The Closing

**Give the interviewee a final (for that meeting) opportunity to provide information.**

“Is there anything I haven’t asked that you think I should know?”

“If you were me who would you interview? What would you want to see?”

“It’s not uncommon to think of something after you leave. If you think of something, will you please contact me?”

**Ask if they have questions.**

**Discuss supportive measures/resources.**

**Thank the interviewee for their time.**

# Developing the (“Living”) Investigation Plan

**Who should be interviewed?**

**What other (non-witness) evidence may be available?**

# The Investigation Report



Prior to completing the investigation report, the Investigator will send to the parties and their advisors all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, regardless of whether it is anticipated that the evidence will be used at the hearing.

- Parties will have 10 calendar days to provide a written response, including identifying additional evidence for the Investigator's consideration prior to completing the investigation report.

At least 10 calendar days before the hearing, the Investigator will provide the parties and their advisors a copy of the investigation report. Report does not make findings of fact.

- Parties will again have the opportunity to respond.

# Hearing – The Hearing Officer (Decision-maker)

**Neumann employee or external contractor; cannot be Title IX coordinator or investigator**

**How does the hearing officer get ready?**

Self-identify conflict of interest and bias.

Importance of impartiality. Do not prejudge the evidence.

Prepare, prepare, prepare.

Read the report carefully and repeatedly.

Understand the conduct at issue and the elements of the alleged violations.

Identify the areas of agreement and disagreement.

Did the investigator explore and consider all the relevant evidence – what areas require further inquiry?

# Hearing – The Hearing Officer (Decision-maker)

## What is the hearing officer's role at the hearing?

- Ask relevant questions of parties and witnesses and review relevant evidence to aid in reaching an unbiased conclusion, based on available inculpatory and exculpatory evidence.
- Ensure the parties have equal opportunities to present and challenge evidence.
- Manage the hearing and enforce the rules of decorum.
- Make relevancy determinations.
- Evaluate credibility.
- Weigh the evidence.
- Make a decision on responsibility using a preponderance of the evidence standard and, if appropriate, issue sanctions (probation, suspension, expulsion, etc.).

## What is the Advisor's role?

- Provide support and advice to the party.
- Understand the purpose and scope of cross-examination.
- Ask questions on cross-examination that elicit relevant information.
- Wait for relevancy determinations.
- Adhere to rules of decorum.



# The Hearing – Neumann’s Policy and Procedures

## Audio recording.

## Allow opening statements by the parties (5 mins max).

## Hear from the Complainant, Respondent, and witnesses.

Each party will have the opportunity to provide relevant evidence to the Hearing Officer.

The Hearing Officer may ask relevant questions of each party and witness, either before, during, or in follow-up to their testimony.

Facilitate each party’s advisor asking relevant cross-examination questions.

- The Hearing Officer will determine whether questions are relevant prior to the Party or witness answering the question. If the question is deemed not relevant, the Hearing Officer will provide a brief explanation and the question will be precluded. The Hearing Officer’s decision is not subject to challenge or objection during the Hearing.
- **If a party does not submit to cross-examination, the Hearing Officer must not rely on any statement of that party in reaching a determination regarding responsibility. The Hearing Officer cannot draw an inference regarding responsibility based solely on a party’s absence from the Hearing or refusal to answer questions.**
  - AS OF AUGUST 2021, DEPARTMENT NO LONGER ENFORCES THIS PROVISION IN THE REGS (*Victim Rights Law Center et al. v. Cardona*, No. 1:20-cv-11104, 2021 WL 3185743 (D. Mass. July 28, 2021), vacated this language in the regs)

# Is it Relevant?

**Ask: Is it probative of any material fact?**

**Certain evidence is specifically deemed not relevant:**

Questions and evidence about complainant's sexual predisposition or prior sexual behavior, unless to prove that someone other than respondent committed the conduct alleged or, if concerning specific incidents of complainant's conduct with respondent, offered to prove consent.

Records that are made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to a party, except where the party has consented to their access and use.

**Questions also may be deemed not relevant when they are duplicative of other evidence already in the record.**

# Is it Credible?

Even where it appears to be a “draw,” it seldom is – one person is usually more credible than the other.

Everyone’s credibility is at issue – there are no “perfect” Complainants, Respondents or witnesses

Consider the following to determine credibility:

- Is the testimony believable?
- Does it make sense?
- Is it convincing?
- Is there a level of detail and specificity?
- Does the testimony feel rehearsed/memorized?

Look to

- Demeanor
- Corroboration

Inconsistencies may or may not be important

- Is there a reasonable explanation?
- Is the point significant or trivial?
- Is the variation something that might result from memory lapse?

# Standard of Evidence – Preponderance of the Evidence



Preponderance doesn't mean who has more witnesses.

It's the quality of the evidence, not the quantity.

## The different standards of evidence

- Beyond a reasonable doubt
- Clear and convincing evidence (highly probable)
- **Preponderance of the evidence (more likely than not)**
- Some evidence

# Rules of Decorum

- Apply to the Complainant and Respondent, Advisors and witnesses participating in any Hearing.
- All parties will follow rules of common courtesy and decency at all times.
- All conduct must be consistent with Neumann University's mission and core values (Reverences, Integrity, Service, Leadership, and Stewardship).
- ***Individuals failing to follow the Rules of Decorum may be directed to leave the Hearing, at the Hearing Officer's sole discretion.***
- Although the Hearing Officer may provide warnings or reminders of the Rules of Decorum before such removal, a pre-removal warning or reminder will not necessarily be provided depending on the nature of the conduct in question.

# Hearing Outcome Letter

## The Hearing Outcome Letter will include:

- A description of the allegations that led to the Hearing, as potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of the Formal Complaint through the determination;
- A statement of factual findings supporting the determination;
- A statement of the conclusions regarding the application of the policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- An explanation of the disciplinary sanctions imposed on the Respondent, if any;
- Statement of whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant; and
- The procedures and grounds for appeal.

# Appeals

**Either party may appeal a determination of responsibility (or non-responsibility) based on only one of the following:**

- A procedural irregularity that affected the determination of responsibility;
- The existence of new evidence that was not reasonably available at the time of the Hearing that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.
- Dismissal of a Formal Complaint alleging Title IX Sexual Harassment.

**Non-appealing party may respond, but no further exchange of positions is permitted.**

**Appeal Officer can be Neumann University employee or external contractor; cannot be Title IX Coordinator, Investigator or Hearing Officer assigned to the matter subject to the appeal.**

# Appeals

**The Appeal Officer will evaluate the appeal on the written record and recording of the Hearing, and may seek input from the Title IX Coordinator, Investigator and/or Hearing Officer as deemed appropriate in the Appeal Officer's sole discretion.**

**If the Appeal Officer determines that:**

- A procedural irregularity affected the outcome of responsibility, then the case will be remanded to a new Hearing Officer.
- New evidence exists that was not reasonably available at the time of the Hearing that could affect the outcome of the matter, then the matter will be remanded to a new Hearing Officer.
- The Title IX Coordinator, Investigator or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter, then the case will be remanded to a new Hearing Officer.

**The Appeal Officer's decision is final. No further appeals are allowed.**



