



UNIVERSITY OF
**NORTHERN
COLORADO**

Office of Institutional Equity & Compliance

University Regulation: Discrimination Complaint Procedures

3-6-125 Discrimination Complaint Procedures - Purpose and Scope. Consistent with Board Policy 1- 1508 and applicable Federal and State law, these Discrimination Complaint Procedures of the University of Northern Colorado (“DCP”) apply to all Complaints of Discrimination, Harassment and/or Retaliation, as those terms are defined below, with respect to students, faculty and/or staff. For additional provisions applicable to “formal complaints” of “sexual harassment” alleged to have occurred on or after August 14, 2020 as described in the “Title IX Rule” referenced in Section 3-6-135, below, should the Title IX Rule be in force and effect on or after August 14, 2020, please see Sections 3-6-135 through 145.

The DCP contains the only University processes that can be utilized by University students, faculty and/or staff for claims of Discrimination, Harassment and/or Retaliation and no other review, grievance or appeal processes of any type (including but not limited to those contained in Board Policy 2-2-106 and 2-3-1201) may be utilized unless specifically stated to the contrary in the DCP. If an allegation of Discrimination, Harassment and/or Retaliation is made during any other review, grievance or appeal process, such review, grievance or appeal will be held in abeyance pending resolution of such allegation under the DCP.

3-6-126 Definitions

The following definitions apply to the DCP:

- (1) “Arbitrary and/or capricious” means a Decision that is devoid of factual support and/or based on a personal grudge or bias.
- (2) “Appeal Meeting” means the meeting convened by the Appeal Decision Maker at which the Complainant and the Respondent have the opportunity to make an oral presentation in support of their respective positions about the appeal(s).
- (3) “Burden of proof,” as it applies to a Decision under the DCP, means the requirement that the person who makes an assertion must prove that assertion by a “preponderance of the evidence.”
- (4) “Collaborator” means an Investigator who works with another Investigator or a Decision Maker who works with another Decision Maker to issue a Decision.
- (5) “Complainant” means the person who brings a Complaint alleging Discrimination, Harassment or Retaliation. The Complainant may allege that they or another person has been subjected to Discrimination, Harassment or Retaliation. If the Complaint alleges that one or more persons other than the Complainant have been subjected to Discrimination, Harassment or Retaliation, any such person(s) are deemed a Complainant as that term is used in the DCP.
- (6) “Complaint” means the document filed under the DCP by the Complainant.
- (7) “Days” means calendar days. In computing any time period stated in the DCP, the day on which the period of time begins to run will not be counted and the last day of the period will be included

unless it is a Saturday, Sunday or day designated as “university holiday,” “university closed” or “spring break” on the UNC Calendar maintained on the University website, in which case the period will end on the next day which is not a Saturday, Sunday or day designated as “university holiday,” “university closed” or “spring break.”

- (8) “Decision” means the written decision issued by the Decision Maker(s).
- (9) “Decision Maker” means an individual who issues a Decision.
- (10) “Disciplinary Action” means an action described in a Decision or Appeal Decision implemented with respect to a Respondent employee.
- (11) “Discrimination” means acts prohibited under Title VI and Title VII of the Civil Rights Act of 1964, Executive Order 11246, the Equal Pay Act of 1963, the Americans with Disabilities Act, the Family and Medical Leave Act, the Age Discrimination in Employment Act of 1967, the Colorado Anti-Discrimination Act, the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Uniformed Services Employment and Reemployment Rights Act and/or the Vietnam Veterans’ Readjustment Assistance Act of 1974.
- (12) “Harassment” means unwelcome and/or nonconsensual Discrimination that is severe OR pervasive and creates an intimidating, hostile or abusive work or educational environment.
- (13) “Interim action” means an action taken while a Complaint is pending to provide reasonable protection to the Complainant, the Respondent or any other person who might be adversely affected prior to issuance of a Decision or Appeal Decision.
- (14) “Investigator” means the person who investigates a Complaint and who may also be a Decision Maker with respect to that Complaint.
- (15) “Judicial Proceeding” means a proceeding in a State, Federal or Municipal court.
- (16) “No contact order” means an order issued by the University that prohibits a person from contacting a person or persons or limits the circumstances under which such contact may occur.
- (17) “PNG (persona non grata)” means an order issued by the University that prohibits a person from being on University property or a defined portion of University property.
- (18) “Preponderance of the evidence” means that considering all the evidence, an assertion is more probably true than not true, even to the slightest degree. If the person making an assertion fails to meet their burden of proof or if the evidence weighs so evenly that the Decision Maker(s) are unable to say that there is a preponderance on either side, the Decision Maker(s) must resolve the question against the person who has the burden of proof.
- (19) “Quasi-judicial proceeding” means a proceeding, such as those before the State Personnel Board, which is substantially similar to a Judicial Proceeding but does not occur in a Federal, State or Municipal Court.
- (20) “Remedy” means an action described in a Decision or an Appeal Decision to be implemented with respect to a Complainant in order to mitigate the effects of the actions of a Respondent.
- (21) “Respondent” means a person who the Complainant alleges has engaged in Discrimination,

Harassment and/or Retaliation.

- (22) "Retaliation" means an adverse action against an individual that occurs because they have complained of Discrimination or Harassment in good faith or because they have provided information in good faith in an investigation of alleged or potential Discrimination or Harassment.
- (23) "Sanction" means an action described in a Decision or an Appeal Decision to be implemented with respect to a Respondent student.
- (24) "Standard of review," as it applies to an Appeal Decision under the DCP, means the requirement that the person who appeals a Decision must prove that the Decision was "arbitrary and/or capricious."
- (25) "Title IX Coordinator" means the University employee responsible for overseeing the University's compliance with the provisions of Title IX.
- (26) "University" means the University of Northern Colorado.
- (27) "University Counsel" means the University employee who acts as the chief legal officer for the University.

3-6-127 General Procedures.

- (1) **Filing a Complaint.** A Complaint under the DCP is initiated by contacting the appropriate person described below and submitting the Discrimination Complaint Form described in subsection (3), below. The contacts described below may be face-to-face, by telephone or electronic/online means:
 - (a) If the Complainant is a student, by contacting the Assistant Dean of Students/Office of Student Engagement ("Asst DOS") or the Title IX Coordinator.
 - (b) If the Complainant is faculty or staff, by contacting the Director of Human Resources Services ("Dir HR").
 - (c) If the Complainant is a person who is not a student, faculty or staff, by contacting the Title IX Coordinator or Dir HR.
 - (d) If the Respondent is the Asst DOS, Dir HR, and/or the Title IX Coordinator, by contacting the Senior Vice President/Chief Academic Officer.
- (2) **Investigation Where Discrimination Complaint Form Not Submitted.** When a University official, including but not limited to the President, a Senior Vice President, University Counsel, Title IX Coordinator, Asst DOS and/or Dir HR becomes aware of allegations that, if true, constitute Discrimination, Harassment and/or Retaliation, the University may investigate such allegations regardless of whether a Discrimination Complaint Form is submitted and, if reasonable and appropriate, may identify the Complainant(s) and Respondent(s) with respect to such allegations and proceed with the Formal Complaint Procedures described in the DCP.
- (3) **The Discrimination Complaint Form.** After the Complainant contacts the appropriate individual as stated in subsection (1), above, the Complainant will be requested to complete a Discrimination Complaint Form ("Form") to provide information about the Complaint.

- (a) **Contents.** The Complainant will provide the following information in the Form:
- (i) The name of the Complainant;
 - (ii) The name of the Respondent(s);
 - (iii) A description of the events that the Complainant believes constitute Discrimination, Harassment and/or Retaliation;
 - (iv) The names of persons who the Complainant believes have information that would support the allegations of Discrimination, Harassment and/or Retaliation;
 - (v) The remedy or outcome requested by the Complainant;
 - (vi) Acknowledgment by the Complainant that the University may have the obligation to
 - (A) disclose the names of the Complainant and Respondent, as well as relevant facts about the alleged events, including date, time and location, to the Title IX Coordinator, the University Counsel and other University officials and employees pursuant to the DCP, and
 - (B) investigate these events whether or not a Complaint is filed;
 - (vii) A request, if any, by the Complainant that their identity remain confidential;
 - (viii) Acknowledgment by the Complainant that they has the right to contact law enforcement authorities to discuss whether the events they have described may be grounds to file a criminal complaint;
 - (ix) Acknowledgment by the Complainant that the DCP has been made available to them for their review; and
 - (x) The signature (either electronically or in hard copy) of the Complainant.
- (b) **Request for Confidentiality.** If the Complainant requests that their identity be kept confidential, the University will evaluate, and grant or deny such request in the context of the University's responsibility to provide a safe and nondiscriminatory environment to all students and employees. Among other things, a request for confidentiality by the Complainant may limit the University's ability to initiate or to investigate the Complaint or to impose sanctions or disciplinary action against the Respondent.
- (c) **Notification to the Title IX Coordinator and University Counsel.** The Title IX Coordinator and University Counsel will be notified of the Complaint and will be given a copy of the Form completed by the Complainant.
- (d) **Notification to Law Enforcement Authorities.** Based upon the events that have been alleged in support of a Complaint, the University may deem it appropriate to notify law enforcement authorities of the allegations of the Complaint.
- (e) **Notification to the Respondent.** The Respondent will be notified of the Complaint and will

be given a copy of the completed Form subject to redaction of information contained in the form if the University determines that a Complainant's request for confidentiality will be granted.

- (f) **Consent to Disclosure Under FERPA.** To the extent Complainant and/or Respondent have rights to consent to disclosure of education records under the Family Educational Rights and Privacy Act ("FERPA"), filing a Complaint and/or submitting a Response to a Complaint pursuant to the DCP constitutes consent under FERPA by the Complainant and Respondent to disclosure by the University of information and materials received, compiled or prepared in the course of the investigation of the Complaint in order to comply with its responsibilities under the DCP.

3-6-128 Interim Actions. The University will take interim actions it believes are reasonable and necessary to protect the Complainant, the Respondent, and/or any identified persons who may have information relevant to the Complaint. These interim actions may include, but are not limited to, no contact orders, adjustments to class schedules, adjustments to housing assignments, PNG orders, and interim suspension of students, administrative leave of faculty or staff and/or information about sources of advocacy, counseling, and support.

3-6-129 Limitations on Disclosure to the Public and University Officials, Employees and Students

- (1) The University will take all reasonable and appropriate measures to object to disclosure under the Colorado Open Records Act of all information and materials received, compiled or prepared in the course of the investigation of a Complaint, including all recommendations, Decisions and Appeal Decisions.
- (2) All information and materials received, compiled or prepared in the course of the investigation of a Complaint, including all recommendations, Decisions and Appeal Decisions, may be shared only with those University officials or employees who need to be informed in order to:
 - (a) Fulfill their supervisory responsibilities over the Complainant or Respondent, and/or
 - (b) Facilitate the efficient operation of the University, and/or
 - (c) Implement and/or monitor the remedies, sanctions or disciplinary action issued with respect to the Complaint.

3-6-130 Initiation of External Procedures. The Complainant and/or Respondent have the right to initiate applicable judicial, quasi-judicial (including but not limited to the State Personnel Board) or governmental agency (including but not limited to the Equal Employment Opportunity Commission, the Colorado Civil Rights Division, the United States Department of Labor Office of Civil Rights and/or the United States Office of Federal Contract Compliance Programs) processes, at any time after a Complaint is filed. If any such processes are initiated by either the Complainant or Respondent, the University may, in its discretion, suspend or terminate further action under the DCP.

3-6-131 Time Limits and Extensions. Any time requirement or deadline under the DCP may be shortened or extended:

- (1) If agreed to in writing by:
 - (a) The Complainant, the Respondent and the Title IX Coordinator or Dir HR, as the case may be, under the Informal Complaint Procedures, or

- (b) The Complainant, the Respondent and the Decision Maker or Appeal Decision Maker, as the case may be, under the Formal Complaint Procedures, or
- (2) In order to prevent manifest injustice to one or more of the parties or other participants as determined by:
 - (a) The Title IX Coordinator or Dir HR, as the case may be, under the Informal Complaint Procedures, or
 - (b) The Decision Maker or Appeal Decision Maker, as the case may be, under the Formal Complaint Procedures.

3-6-132 Informal Complaint Procedures.

- (1) **Purpose.** The purpose of the Informal Complaint Procedures is to attempt to resolve the Complaint to the satisfaction of the Complainant and the Respondent by use of voluntary mediation.
- (2) **When Informal Complaint Procedures Are Not Allowed.** The Complaint may not proceed under the Informal Complaint Procedures if:
 - (a) The Complainant and/or the Respondent do not agree to utilize the Informal Complaint Procedures,
 - (b) The Complaint contains allegations that, if true, would constitute a violation of criminal laws,
 - (c) Criminal or civil judicial, quasi-judicial and/or governmental agency proceedings have been filed based on the allegations of the Complaint, and/or
 - (d) The Complaint contains a request for confidentiality by the Complainant.
- (3) **Agreement to the Informal Complaint Procedures.** Provided the Complaint is one that is allowed to proceed under the Informal Complaint Procedures, if the Complainant or the Respondent requests that the Informal Complaint Procedures be utilized and the other party does not object to the request, the Informal Complaint Procedures will be utilized.
- (4) **Withdrawal of Request By the Complainant or Respondent.** At any time, the Complainant or the Respondent may, at their discretion, request that the Informal Complaint Procedures terminate. If either the Complainant or the Respondent so requests, the Informal Complaint Procedures will terminate and the Complaint will proceed under the Formal Complaint Procedures described below.
- (5) **Responsibility for Leading and Monitoring.** The Informal Complaint Procedure will be led and monitored by the:
 - i. Title IX Coordinator if the Complainant is a student or
 - ii. Dir HR where the Complainant is faculty or staff.
- (6) **Steps In Pursuance of Resolution.** The Title IX Coordinator or Dir HR (or designee), as the case

may be, will meet with the Complainant and the Respondent (either together or separately, as determined by the Title IX Coordinator/Dir HR, who shall take into consideration the wishes of the Complainant and Respondent) to discuss resolution of the Complaint in a manner acceptable to both parties. Such meeting will be held no later than 21 days after the Complaint is filed.

- (7) **If Resolution Achieved.** If a mutually acceptable resolution is achieved, the terms and conditions of the resolution will be documented in writing and signed by (a) the Title IX Coordinator or Dir HR, as the case may be, (b) the Complainant and (c) the Respondent. A mutually acceptable resolution must be achieved no later than 10 days after the meeting described in subsection (6), above unless the deadline to do so is extended under Section 3-6-131(2)(a)(i) or (b)(i).
- (8) **If Resolution Not Achieved.** If a mutually acceptable resolution is not achieved, the Complaint will proceed under the Formal Complaint Procedures described below.

3-6-133 Formal Complaint Procedures.

- (1) **Respondent's Response to the Complaint.** The Respondent will be asked to provide a written response that contains their position with respect to the allegations of the Complaint within 10 days of the date on which the Respondent was provided with a copy of the Form.
- (2) **Contents.** In the written response, the Respondent should provide:
 - (a) Their response to the allegations of the Complaint,
 - (b) The names of persons who the Respondent believes have information that would support the Respondent's position and
 - (c) Documents or materials that the Respondent believes support the Respondent's position.
- (3) **Burden of Proof.** The Complainant has the burden to prove that they have been subjected to Discrimination, Harassment and/or Retaliation.
- (4) **Investigation of the Complaint.**
 - (a) **The Investigatory Process.** The Investigator(s) will review the Form and the written response of the Respondent and will gather additional relevant information by:
 - (i) Interviews of persons who may have relevant knowledge including but not limited to the Complainant, the Respondent and/or persons identified in any written or oral information provided in the course of the investigation of the Complaint and/or
 - (ii) Retrieval of relevant documents and/or other materials.
 - (b) **Advisor for the Complainant and/or the Respondent.** At any interview by the Investigator(s) of the Complainant or the Respondent the party interviewed may have one person of their choosing present at the interview as an advisor. The advisor may confer with the party during interview (if the party so requests) but may not otherwise participate in or make any presentation during the course of the interview. The advisor may not submit any written materials to the Investigator(s), the Decision Maker(s), or any consultant employed by the University to conduct or assist with the investigation of the Complaint.
 - (c) **Conduct of the Investigation.** The Investigator(s) will investigate the Complaint as discreetly

and expeditiously as possible with due regard for thoroughness and fairness to the Complainant, the Respondent and any other persons who may have relevant information.

- (d) **Assessing the Information Gathered.** The Investigator(s) and Decision Maker(s) will assess the information gathered in the course of the investigation, including the credibility of the Complainant, the Respondent and of any other person who provides information about the Complaint.
- (e) **When Investigator(s) is/are not Decision Maker(s).** When the Investigator(s) is/are not the Decision Maker(s), the Investigator(s) will provide the Decision Maker(s) with a written recommendation regarding the investigation that will contain each of the items described in Section 3-6-133(5)(b)(i) through (iii), below.
- (f) **Use of Outside Consultants.** The University may, in its sole discretion, hire a consultant(s) not employed by the University to conduct or assist with the investigation of a Complaint.

(5) The Decision Making Process.

- (a) **Investigator as Decision Maker.** Except as otherwise described in the DCP, the Investigator will be the Decision Maker and will issue promptly, with due regard for the nature, scope, and complexity of the investigation, a Decision regarding the Complaint.
- (b) **Contents of the Decision.** The Decision will:
 - (i) Summarize the matters at issue in the Complaint,
 - (ii) Describe the Decision Maker's conclusions about whether the Complainant has met their burden of proof that Discrimination, Harassment and/or Retaliation have occurred and the reasons in support of those conclusions and, if the Decision Maker concludes that Discrimination, Harassment and/or Retaliation have occurred:
 - (A) Identify the persons who have been subjected to Discrimination, Harassment and/or Retaliation,
 - (B) Describe the Remedies to be implemented with respect to the Complainant and
 - (C) Describe the Sanctions or Disciplinary Action that will be implemented with respect to the Respondent.
- (c) **Notification of the Decision.** A copy of the Decision will be provided promptly by the Decision Maker to the Complainant, the Respondent, and the University Counsel.
- (d) **Implementation of Decision.** Except as otherwise described in the DCP, the Decision Maker will (i) implement or (ii) direct and monitor the implementation of any Remedies, Sanctions and/or Disciplinary Action described in the Decision.
- (e) **Decision Final and Binding If Not Appealed.** If any portion of the Decision subject to appeal is not appealed as permitted under the Appeal Process described below, that portion of the Decision is final and binding on the University, the Complainant and the Respondent.

(6) The Appeal Process.

- (a) **Who May File an Appeal.** An appeal of the Decision may be filed by either the Complainant or the Respondent.
- (b) **Matters That May Be Appealed.** An appeal is permitted only with respect to the following matters that may be contained in the Decision:
 - (i) Remedies, and/or
 - (ii) Sanctions (but only to the extent that a student is suspended or expelled from the University) and/or
 - (iii) Disciplinary Action(s) (but only to the extent that the faculty and/or staff suffers termination of employment, demotion or reduction in compensation).
- (c) **Matters That May Not Be Appealed.** No appeal may be filed with respect to the conclusion of whether Discrimination, Harassment and/or Retaliation have occurred, except in the case of a tenured faculty member who chooses to avail themselves of 2-3-1101(3), who can appeal any conclusion of whether Discrimination, Harassment and/or Retaliation have occurred.
- (d) **Standard of Review.** The standard of review that shall be applied by the Appeal Decision Maker in any Appeal Decision is whether the Decision is “arbitrary and/or capricious.” If the appealing party fails to satisfy that burden, the Appeal Decision Maker must affirm the Decision.
- (e) **Reversal or Modification of the Decision.** In order for the Appeal Decision Maker to conclude that the Decision should be reversed or modified, the Appeal Decision Maker must find that the Remedies, Sanctions and/or Disciplinary Action(s) described in the Decision are “arbitrary and/or capricious.”
- (f) **Deadline for Filing an Appeal.** An appeal must be filed by submitting a written Appeal Form with the Appeal Decision Maker no later than 5 days from the date the Decision is provided simultaneously to the Complainant and the Respondent. No appeal will be allowed as a response to an appeal filed by the other party.
- (g) **Contents of the Appeal Form.** The Appeal Form shall describe succinctly:
 - (i) The portion(s) of the Decision that are appealed, and
 - (ii) The relief requested in the appeal.
- (h) **Notification of the Appeal.** After the deadline for filing an appeal has occurred, the Appeal Decision Maker shall provide promptly to the parties all Appeal Forms filed.
- (i) **Initial Review of the Appeal Forms.** The Appeal Decision Maker will perform an initial review of each Appeal Form to determine if the party submitting the Form has appealed a matter outside of the scope of Section 3-6-133(6)(b) and, if so, will inform both parties that the appeal is denied as to each such matter.
- (j) **Written Position Statements in Support of the Appeal.** The Complainant and the Respondent will have 5 days from the notification of the appeal by the Appeal Decision Maker to submit simultaneous written position statements regarding the appeal(s). The written position statements shall address:

- (i) Whether the portions of the Decision that have been appealed should be affirmed or reversed,
 - (ii) Whether the relief requested in the appeal should be granted, and
 - (iii) The reasons in support of the submitting party's position.
- (k) **Notification of Written Position Statements.** The Appeal Decision Maker shall provide promptly to the parties the written position statements filed.
- (l) **The Appeal Meeting.** If the Appeal Decision Maker, the Complainant and/or the Respondent requests that an Appeal Meeting be held, separate Appeal Meetings will occur between the Appeal Decision Maker and each party not more than 21 days after the deadline for submission of the written position statements. If the Complainant, the Respondent and the Appeal Decision Maker specifically agree to do so, the Appeal Meeting will be a joint Appeal Meeting attended by both the Complainant and the Respondent.
- (m) **Appeal Advisor for the Complainant and the Respondent.** At the Appeal Meeting, the Complainant and the Respondent may each have one person of their choosing to be present as an advisor. The advisor may confer with the appealing party during the Appeal Meeting but may not otherwise participate in, make any presentation to, or submit any written materials to the Appeal Decision Maker.
- (n) **Conduct of the Appeal Meeting.** At the Appeal Meeting, the Appeal Decision Maker may:
- (i) Limit the length of the oral presentations, provided that the same time limit is imposed for each party's presentation, and
 - (ii) Ask questions during or at the conclusion of the parties' presentations regarding matters relevant to the appeal(s).
- (o) **The Appeal Decision.** The Appeal Decision Maker will issue a written Appeal Decision not more than 10 days following the (i) submission of the written position statements or (ii) the conclusion of the Appeal Meeting(s), if Appeal Meeting(s) are held.
- (p) **Contents of the Appeal Decision.** The Appeal Decision will:
- (i) State the Appeal Decision Maker's conclusions about whether the portions of the Decision that have been appealed should be affirmed or reversed,
 - (ii) State whether the relief requested in the appeal(s) is granted, and
 - (iii) Describe the reasons in support of the Appeal Decision Maker's conclusions about (i) and (ii), above.
- (q) **Decision Final and Binding.** The Appeal Decision is final and binding on the University, the Complainant and the Respondent.

(1) If both the Complainant and the Respondent are students:

- (a) The Investigator and Decision Maker is the Assistant DOS, provided, however, that in addition to the designation of an Investigator under Section 3-6-133(4)(f), the Assistant DOS may designate another University employee as Investigator and
- (b) The Appeal Decision Maker is the Senior Vice President/Chief Academic Officer.

(2) If both the Complainant and the Respondent are faculty and/or staff:

- (a) The Investigator is the Dir HR,
- (b) The Decision Maker is the Senior Vice President or Vice President who has supervisory authority over the Respondent, and
- (c) The Appeal Decision Maker is the Senior Vice President who was not the Decision Maker. If a Senior Vice President was not the Decision Maker, the Appeal Decision Maker will be a Senior Vice President selected by the Title IX Coordinator.

(3) If the Complainant is a student and the Respondent is faculty and/or staff:

- (a) The Investigators are the Assistant DOS and the Dir HR, both of whom will act as Collaborators,
- (b) The Decision Makers are the Assistant DOS and the Senior Vice President or Vice President who has supervisory authority over the Respondent, both of whom will act as Collaborators and The Appeal Decision Maker is the Senior Vice President who was not a Decision Maker. If a Senior Vice President was not a Decision Maker, the Appeal Decision Maker will be a Senior Vice President selected by the Title IX Coordinator.

(4) If the Complainant is faculty and/or staff and the Respondent is a student:

- (a) The Investigators are the Dir HR and the Assistant DOS, both of whom will act as Collaborators,
- (b) The Decision Makers are the Assistant DOS and the Senior Vice President or Vice President who has supervisory authority over the Complainant, both of whom will act as Collaborators, and
- (c) The Appeal Decision Maker is the Senior Vice President who was not a Decision Maker. If a Senior Vice President was not a Decision Maker, the Appeal Decision Maker will be a Senior Vice President selected by the Title IX Coordinator.

(5) If the Complainant and/or the Respondent is a Trustee, the President, University Counsel, or Internal Auditor:

- (a) The Investigator is a consultant (as described in Section 3-6-133(4)(e)) selected collaboratively by the Dir HR and the Title IX Coordinator,
- (b) The Decision Maker is a Senior Vice President selected collaboratively by the Dir HR and the Title IX Coordinator, and

(c) The Appeal Decision Maker is a Senior Vice President who was not the Decision Maker selected collaboratively by the Dir HR and the Title IX Coordinator.

(6) **If the Complainant and/or the Respondent is a Vice President, the Dir HR, the Title IX Coordinator or the Assistant DOS**, such person(s) shall not serve as Investigator, Decision Maker or Appeal Decision Maker and their replacement(s) shall be selected by, in order of precedence, the following individuals who are not the Complainant or the Respondent: the Senior Vice President/Chief Academic Officer, the Senior Vice President/Finance and Administration, the remaining Vice Presidents in order of seniority, the Dir HR, the Title IX Coordinator or the Assistant DOS.

(7) **If the Respondent is a tenured faculty member and the disciplinary action of the Decision Maker(s) is the Respondent's dismissal (termination of employment)**, the Respondent may, within the time limit stated in Section 3-6-133(6)(f), provide written notification to the Appeal Decision Maker of their decision to exercise their right to appeal using either:

(a) The procedures described in Board Policy 2-3-1101(3), in which case the Appeal Decision Maker will communicate to the President the Decision of the Decision Maker, or

(b) The Appeal Process described in the DCP.

If the Respondent files a timely appeal but does not provide written notification of their choice of the alternative processes described in subsections (a) and (b), above, the procedures described in Board Policy 2-3-1101(3) will be used with respect to Respondent's appeal.

(8) Notwithstanding the investigation and decision making processes of a Complaint as described in the DCP, if the Disciplinary Action to be implemented with respect to a Respondent who is a tenured faculty member is their dismissal (termination of employment), such Respondent is entitled to all the processes contained in Board Policy 2-3-1101(3).

(9) **If the Respondent is a student and the sanction of the Decision Maker(s) is the Respondent's suspension or expulsion from the University**, the Respondent may, within the time limit stated in Section 3-6-133(6)(f), provide written notification to the Appeal Decision Maker of their decision to exercise their right to appeal using either:

(a) The procedures described in Board Policy 2-1-504(1), in which case the Appeal Decision Maker will communicate to the Chief Disciplinary Officer of the University the Decision of the Decision Maker, or

(b) The Appeal Process described in the DCP.

If the Respondent files a timely appeal but does not provide written notification of their choice of the alternative processes described in subsections (a) and (b), above, the procedures described in Board Policy 2-1-504(1) will be used with respect to Respondent's appeal.

(10) A Respondent who, under subsection (7) or (9), above, requests the Appeal Process described in the DCP waives their right to the procedures referenced in Subsection (7)(a) or (9)(a), above as the case may be.