



# KENTUCKY STATE UNIVERSITY POLICIES AND PROCEDURES

## TITLE IX AND GENDER BASED VIOLENCE

### 1. Policy

#### **Title IX of the Education Amendments of 1972:**

Title IX prohibits discrimination on the basis of sex including sexual harassment or violence such as rape, sexual assault, sexual battery and sexual coercion.\* School Responsibilities: School has responsibility to respond promptly and effectively to address sexual misconduct\*. If school knows or reasonably should have known about sexual misconduct that creates a hostile environment, must take immediate action to eliminate the harassment, prevent its recurrence, and address its effects.

Must promptly investigate to determine what occurred even if the student does not want to file complaint.

Criminal investigation does not alleviate school of duty to resolve complaints promptly and equitably.

Must have at least one designated Title IX Coordinator (TIC) responsible for coordinating campus compliance with Title IX.

Must have and widely distribute a policy against sex discrimination and make the policy available on an on-going basis; must state that any inquiries concerning Title IX may be referred to the schools TIC or OCR.

Must have and make known procedures for students to file complaints of sex misconduct. Procedures must provide for prompt and equitable resolution of sex misconduct complaints; complainant has right to present his or her case, right to be notified of the time frame of resolution of the complaint; complaint decided using preponderance of the evidence standard; right to be notified, in writing of the outcome of the complaint (note: Privacy laws limit disclosure of certain information but must disclose complainant information about the sanction imposed on the accused when it directly relates to the harassed student including no contact orders); procedures may include voluntary informal methods; however, mediation is not appropriate in cases involving allegations of sexual assault. Accused and accuser entitled to simultaneous notification of the outcome of a hearing and appeal rights.

\* Referred to collectively as sexual misconduct

#### VI. Investigation Requirements and Procedures

A. All proceedings will include a prompt, fair, and impartial investigation and result. Kentucky State University will provide the respondent and complainant equitable rights during the investigative process.

B. All complaints of sexual misconduct shall be presented to the Title IX Coordinator or designee for investigation and appropriate disposition.

C. Mediation between the complainant and respondent will never be considered an appropriate resolution in sexual misconduct cases.

D. Investigations shall be conducted in accordance with the following procedures:

1. Investigations under this policy shall be conducted in consultation with University Counsel.
2. Absent good cause, within one (1) business day of receipt of a report of sexual misconduct from a complainant or responsible employee, the Title IX Coordinator or designee shall attempt to get a written statement from the complainant that includes information related to the circumstances giving rise to the complaint, the dates of the alleged occurrences, and names of witnesses, if any. The complainant may fill out a complaint form or submit a detailed written report of the alleged incident.
3. When the complainant chooses not to provide or sign a written complaint, the Title IX Coordinator or designee will investigate to the extent possible and take appropriate action.
4. Both before and during the pendency of the investigations, the Title IX Coordinator shall consider what, if any, interim measures may be necessary. See Section XII below for more information related to interim measures.
5. Complaints made anonymously or by a third party will be investigated to the extent possible.
6. After consultation with the University Counsel, if the Title IX Coordinator determines that the complaint contains an allegation of sexual misconduct, the Title IX Coordinator shall follow the procedures set forth in this policy to investigate and adjudicate the complaint.
7. The Title IX Coordinator may appoint one of the Deputy Title IX Coordinators a qualified, sufficiently trained person to investigate the allegations made in the complaint.
8. Only one person shall be identified as the investigator, though the investigator may have a second person present during interviews to take notes.
9. Investigations shall be conducted by officials who do not have a conflict of interest or bias for or against the complainant or respondent.
10. If the Complainant or Respondent believes the investigator(s) has a conflict of interest, that party must submit a written explanation of the reason for that belief to the Vice President for Student Affairs. The explanation must be submitted within three (3) business days, absent good cause, of the time when the party knew or should have known the facts that would give rise to the alleged conflict of interest. The Vice President will determine if the facts warrant the appointment of a different investigator and respond to the party in writing within three (3) business days, absent good cause.
11. Once the investigator receives the complaint, the investigator shall notify the Complainant in writing of his/her rights and request a meeting.
12. The investigator shall also notify the Respondent in writing of the complaint and his/her rights and request a meeting with the respondent.
13. The investigator shall notify the Complainant, Respondent and all individuals interviewed during the investigation that retaliation is strictly prohibited and may be grounds for disciplinary action. In addition, the investigator shall advise all interviewees that they should contact the investigator immediately if they believe they are being retaliated against.

14. The investigation shall include interviews with both the Complainant and Respondent, unless either declines an in-person interview.
15. The complainant and respondent shall be provided with the same opportunities to have others present during any interview, including the opportunity to be accompanied by the advisor of their choice to any related meeting or proceeding.
16. Kentucky State University will not limit the choice of advisor for either the complainant or respondent.
17. The investigation shall include interviews with relevant witnesses named by the Complainant and Respondent or any other potential, relevant witness made known to the investigator.
18. The investigation shall include the gathering and reviewing of any documentary, electronic, physical, or other type of relevant evidence.
19. The investigator is expected to request a list of relevant witnesses and evidence from Complainant and Respondent and take such into consideration.
20. The investigator shall not consider any evidence about the complainant's prior sexual conduct with anyone other than the alleged perpetrator. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.

VII. Outcome of Investigation and Determination of Appropriate Action

1. Upon completion of the investigation, the investigator shall prepare a written report that includes the allegations made by the complainant, the response of the respondent, corroborating or non-corroborating statements of the witnesses, review of other evidence obtained, conclusions that may be drawn from the evidence gathered, and recommendations about the disposition of the matter.
2. It is the responsibility of the investigator to weigh the credibility of all individuals interviewed and to determine the weight to be given to information received during the course of the investigation.
3. The investigator shall make findings of fact, including a finding as to whether a policy violation has occurred, and recommendations based on the investigation, and shall reflect the findings and recommendations, along with other pertinent information, in a written report. The investigator's findings shall be based on a preponderance of the evidence standard. The report shall also indicate whether the matter should be forwarded to appropriate personnel for disciplinary action.
4. The report shall be forwarded to the University Counsel for legal sufficiency review. After the University Counsel determines the report is legally sufficient, the report shall be forwarded to the applicable Assistant Vice President for Student Affairs for review.
5. The Assistant Vice President is authorized to accept the findings and recommendations, reject the findings and recommendations, remand the report for further investigation, or not uphold the findings that a policy violation has occurred. If the Assistant Vice President accepts that a policy violation occurred, then the Assistant Vice President will also determine appropriate sanctions under the applicable student code of conduct policies and procedures.
6. The Assistant Vice President's determination shall be communicated in writing simultaneously to the Complainant and Respondent, if practicable, along with notice to the parties of their right to contest the findings, recommendations and/or sanctions.

<https://kysu.edu/administration-governance/enrollment-management-and-student-engagement/current-procedure-and-process/>

## **2. Entities Affected**

- Campus Community
- Office of General Counsel

## **3. Policy Owner/Interpreting Authority**

Office of General Counsel

## **4. Related Policies**

*List number(s) and name(s) of related policies or manuals*

## **5. Statutory or Regulatory References**

*Optional*