

# SAGRADO

Universidad del Sagrado Corazón

## Procedure for Title IX Sexual Harassment Complaints

Effective: 2020.08.14

### I. Purpose

This Procedure describes the formal complaint process including the supportive measures available to Complainants and Respondents, the grievance process and informal resolution process for sexual harassment pursuant to the *Title IX Sexual Harassment Policy* (the “Policy”) This Procedure also establishes the roles and the responsibilities of the staff and/or faculty, the Complainants, Respondents and witnesses.

The term “sexual harassment” used in the Policy and this Procedure means and is defined by the 2020 Title IX regulations.

### II. Roles and Responsibilities

For purposes of this Procedure and the Policy, the persons designated to these roles have the following responsibilities.

#### 1. Title IX Coordinator (the “Coordinator”)

The Coordinator is the person that initiates and ensures that all the complaints are investigated, adjudicated and resolved. This is a non-exhaustive list of his/her responsibilities:

- Evaluates requests for non-disclosure of identity.
- Receives claims and formal complaints.
- Requests an investigation upon receipt of a formal complaint.
- May request an investigation without a formal complaint when an investigation is appropriate to address the allegations.
- Communicates with the Victim, Complainant and/or the Respondent to discuss the availability of supportive measures.
- Serves as the point of contact to ensure that the supportive measures are effectively implemented.
- Explains to the Victim and/or Complainant the process for filing a formal complaint.

- Determines if there is an imminent threat that warrants an emergency action.
- Determines if the complaint should be dismissed.
- Sends the necessary notifications to the Complainant, the Respondent and other interested parties.
- Provides Advisors for the hearing if the Complainant or the Respondent does not have one.
- Offers the Complainant and the Respondent the possibility of an informal resolution process.
- Retains all the records.

## 2. Investigator

The Investigator is the person that conducts the investigation once a formal complaint is filed.

- Conducts interviews of the complainant, respondent, witnesses and other interested parties.
- Collects evidence such as, but not limited to, statements, documents, text messages, chats, video, audio and photographs.
- Prior to completion of the investigative report, sends to the Complainant, the Respondents and the Advisors the evidence collected so that they can inspect, review and provide comments. The parties have at least 10 calendar days prior to the hearing to submit a written response.
- Prepares a final written investigative report summarizing the relevant evidence.
- Sends the investigative report to the Complainant, Respondent and the Advisors prior to the hearing.

## 3. Hearing Officer

The Hearing Officer is the person that conducts the hearing once the Investigator has delivered the final investigative report and after the parties have had an opportunity to respond.

- Determines if the complaint should be dismissed.
- Presides over the hearing (in person or using synchronous virtual methods).
- Determines if the evidence is relevant.
- Enforces the rules of order and decorum in the hearings.
- Maintains a record (audio, audiovisual or transcript) of hearing.
- Prepares a written resolution adjudicating responsibility and imposing the disciplinary sanctions and/or remedies.
- Sends the written resolution simultaneously to the Complainant and the Respondent.

## 4. Advisor

The Advisor is the person that assists the Complainant and the Respondent during the hearing. The Advisor must be of legal age capable of understanding the purpose and scope of cross-examination. The Complainant and the Respondent may use the Advisor of their choice or Sagrado will provide one who may or not be an attorney. The Advisor can ask questions to the opposing party and witnesses.

#### 5. Appeal Officer

The Appeal Officer is the person that conducts the appeal if either party files an appeal from the Hearing Officer's resolution and adjudication report. The Complainant or Respondent has 7 calendar days from the date in the Hearing Officer's resolution to file an appeal.

- Notifies in writing to the appealed party.
- Explains the appeal process to the Complainant and the Respondent.
- Provides a reasonable time not to exceed 10 calendar days from the date in the notice for the Complainant and the Respondent to submit their arguments in writing in support of or against the Hearing Officer's resolution.
- Prepares a written appeal resolution and adjudication.
- Sends the appeal resolution and adjudication to the Complainant and the Respondent.

#### 6. Facilitator

The Facilitator is the person that conducts the informal resolution process when the Complainant and the Respondent voluntarily consent to participate.

- Receives from the Coordinator notice that the Complainant and the Respondent voluntarily agree to the informal resolution process.
- Explains the informal resolution process to the Complainant and the Respondent.
- Obtains the voluntary, written consent from the Complainant and the Respondent agreeing the informal resolution process.
- Conducts the informal resolution process with the Complainant and the Respondent.
- Prepares a written informal resolution agreement for the Complainant's and Respondent's signatures

### **III. Grievance Proceedings**

Sagrado promotes an environment free from sexual harassment and fosters that anyone who believes that he/she is, may be or has been a Victim of sexual harassment is encouraged to come forward and file a formal complaint. Any member of our university community who receives information or knows of a conduct of sexual harassment must

report such conduct to the Coordinator or a person authorized by the University to receive such claims and formal complaints.

1. Sagrado will initiate the grievance process upon having actual knowledge that a person is may have been a victim or a Complainant of sexual harassment. Sagrado has actual knowledge when the Coordinator or any person authorized by the University receives a claim or a formal complaint.
2. The grievance process shall be concluded within a reasonable time frame not to exceed 120 calendars days from the date that the Coordinator receives the claim or the formal complaint that includes the investigation, the hearing processes, the informal resolution processes, and the appeal process. The investigation and hearing processes shall take 90 calendar days, and the appeals and informal resolution processes shall take 30 calendar days each, within the 120 calendar days to complete the grievance process.
3. Sagrado's grievance process promotes impartial investigations and adjudications of formal complaints sexual harassment free from conflict of interests, biases and sex stereotypes. Any person designated by Sagrado as a Coordinator, Investigator, Hearing Officer, Facilitator or Appeals Officer may not have a conflict of interest or bias for or against Complainants or the Respondents generally or an individual person.
4. Upon a determination of responsibility for sexual harassment has been made against the Respondent, the University may impose the appropriate and necessary disciplinary sanctions and/or remedies.
5. The process provides for an objective evaluation of all relevant evidence including both inculpatory and exculpatory evidence for the determination of credibility
6. Sagrado will ensure that the Coordinator, Investigator, Hearing Officer, Appeal Officer and the Facilitator are trained as required by the 2020 Title IX regulations, including training on:
  - the definition of sexual harassment,
  - the scope of the University's education program or activity,
  - how to conduct an investigation and grievance process, and
  - how to serve impartially, including by avoiding prejudgment of the facts, conflicts of interest, and bias.

The training will not rely on sex stereotypes and will promote impartial investigations and adjudications of formal complaints of sexual harassment.

7. The Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

8. The grievance process shall be concluded within a reasonable time frame from the filing of the formal complaint to the final resolution of the hearing or the appeal, and the informal resolution processes. The process allows for the temporary delay of the grievance process or the limited extension of time frames for good cause with written notice to the Complainant and the Respondent. Good cause may include but it is not limited to, the absence of a party or an Advisor or a witness, academic or administrative recess, concurrent law enforcement activity, or the need for a disability accommodation.
9. Sagrado will not use or allow to use evidence or information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
10. This Procedure describes a non-exhaustive list of possible disciplinary sanctions and remedies that Sagrado may implement following a determination of responsibility.

Disciplinary sanctions and remedies are designed to restore or preserve equal access to the University's education program or activity. Such disciplinary sanctions and/or remedies may also include the same supportive measures.

11. In making a determination of responsibility, Sagrado will use the preponderance of the evidence standard.

## **A. Response to sexual harassment in general**

### 1. Reporting a violation

Any person may report a sexual harassment conduct as defined in the Policy whether or not the person reporting is the alleged victim of conduct or a person who has knowledge of such conduct.

A person may report an incident without disclosing his/her/their name, identifying the Complainant or the Respondent, or requesting any action. Sagrado's ability to respond to an anonymous report may be limited depending on the level of information available about the incident. An anonymous report is not considered a formal complaint of sexual harassment.

The victim should make the report immediately or as soon as possible to the Coordinator or a person authorized by the University to receive such claims. If the information is received by a person other than the Coordinator, he/she must immediately notify the Coordinator. The report may be in person, by mail, by telephone, or by electronic mail, using the contact information in the portal MiSagrado: [https://mi.sagrado.edu/ICS/Title IX.jnz](https://mi.sagrado.edu/ICS/Title_IX.jnz), or Sagrado's official webpage:

<https://www.sagrado.edu/titulo-ix/>, or by any other means that results in the Coordinator receiving the person's verbal or written report.

## 2. Availability of supportive measures

Supportive measures are available to the victim, the Complainant and the Respondent even without a formal complaint as defined in the Policy.

### **B. Process to respond a formal complaint**

#### 1. Formal complaint

The formal complaint must be filed by a Complainant alleging sexual harassment against a Respondent or signed by the Coordinator. A Complainant must be participating in, or attempting to participate in, Sagrado's education program or activity, as defined in the Policy, at the time of filing a formal complaint.

The Coordinator may sign a formal complaint when she/he believes that an investigation is appropriate. In deciding whether to request an investigation, the Coordinator may consider a variety of factors such as:

- a pattern of alleged misconduct by the Respondent; and/or
- whether a Complainant's allegations involved violence, use of weapons, or similar factors.

Where the Coordinator signs a formal complaint, the Coordinator is not a Complainant or otherwise a party.

The Complainant cannot remain anonymous or prevent the Complainant's identity from being disclosed to the Respondent.

#### 2. Notice to the parties

Upon receipt of a formal complaint or if the Coordinator requests the investigation, the Coordinator will provide a written notice with an explanation of the grievance process including any informal resolution process to the parties who are known. The notice will include sufficient details known at the time including:

- the identities of the parties, if known;
- the conduct allegedly constituting sexual harassment;
- the date and location of the alleged incident, if known;
- a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;

- inform the parties that they may be accompanied by the person of their choice during the grievance process;
- inform the parties that they may have an Advisor of their choice, who may be, but is not required to be, an attorney;
- their right to inspect and review evidence; and
- any provision in the University's policies that prohibits knowingly making or submitting false information during the grievance process.

The Coordinator will send the notice of the formal complaint to the Complainant, the Respondent and witnesses allowing them sufficient time to prepare before the initial interview.

If, in the course of an investigation, the Coordinator or the Investigator decides to investigate allegations about the Complainant or the Respondent that are not included in the original notice, the Coordinator will provide a supplemental notice with the additional allegations to the parties whose identities are known.

### 3. Dismissal of a formal complaint

The Coordinator must dismiss the formal complaint if the conduct alleged:

- does not constitute sexual harassment as described in the Policy and defined by the 2020 Title IX regulations;
- did not occur in the University's education program or activity; or
- did not occur against a person in Puerto Rico or elsewhere in the United States.

However, the dismissal of the formal complaint under does not preclude an investigation and/or sanctions for violations to other University policies.

The Coordinator may also dismiss a formal complaint at any time during the investigation or the hearing:

- a Complainant notifies the Coordinator in writing that the Complainant would like to withdraw the formal complaint;
- the Respondent is no longer enrolled or employed in the University; or
- the specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint such as:
  - where a Complainant refuses to participate in the grievance process (but also has not decided to send written notice stating that the Complainant wishes to withdraw the formal complaint);
  - where the Respondent is not under the University's authority and control (for instance because the Respondent is a non-student, non-employee individual who came onto campus); and
  - where the University cannot gather evidence sufficient to make a determination.

Upon a dismissal, the Coordinator will send a written notice of the dismissal and the reasons simultaneously to the parties.

#### 4. Consolidation of formal complaints

The Coordinator may consolidate two or more formal complaints as to allegations of sexual harassment when the allegations arise out of the same facts or circumstances are:

- against more than one Respondent;
- by more than one Complainant against one or more Respondents; or
- by one party against the other party.

### **C. Pre-hearing investigation process**

#### 1. Notice of the investigation

Prior to the interview, the Investigator will provide a written notice of the investigation process to the parties who are known (Complainant, Respondent and any witnesses) including the date, time, location of interviews with sufficient time to prepare.

#### 2. Investigation proceedings

When investigating a formal complaint:

1. The Investigator will gather evidence. The parties may present witnesses and other inculpatory and exculpatory relevant evidence in any media (hard copy, digital and electronic) including written or verbal testimony, physical documents or objects, video recordings, audiovisuals, text messages, chats, social media or other relevant evidence.
2. The parties may be accompanied by a person or their choice. The University may establish restrictions regarding the extent to which the companion may participate.
3. The University will provide the Complainant and the Respondent the opportunity to inspect and review any evidence obtained (inculpatory and exculpatory) related to the allegations raised in a formal complaint so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

During the investigation, the Investigator may:

- use any reliable synchronic (real time) means to conduct the investigation including in-person, telephone, videoconference, audiovisual or other; and
- establish restrictions regarding the extent to which the companion or the Advisor may participate in the investigation.



The Investigator may not:

- have access, consider, disclose, or otherwise use a physician, psychiatrist, psychologist, or other recognized professional's records that are part of a party's medical treatment, unless the Investigator obtains that party's prior, voluntary, written consent; or
- restrict a party from disclosing the allegations under investigation.

### 3. Investigative report

The Investigator will prepare an investigation report that fairly summarizes the relevant evidence including the following:

- a statement of facts and interviews;
- all relevant evidence including incriminating and exculpatory evidence;
- may include recommendations on credibility, but not a determination of responsibility.

The Investigator shall send the report along with the evidence in an electronic format or a hard copy to the parties with at least 10 calendar days prior to the hearing or a dismissal of the formal complaint.

The parties will have 10 calendar days from the date on the investigation report to submit a written response that the Investigator will consider before completing the final investigation report. The parties may:

- make corrections;
- provide the appropriate context;
- prepare their responses and defense;
- indicate if they understand that relevant evidence is missing;
- make arguments as to the relevance of the evidence.

## **D. Hearing process**

Sagrado will provide for a live hearing where the Hearing Officer shall permit each party's Advisor to ask the other party and any witnesses all relevant questions. The hearing may be with all the parties in the same location or in separate locations with technology enabling the Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

### 1. Hearing proceedings

#### a. Notice of hearing

The Hearing Officer will provide a written notice of the hearing process to the parties including the date, time, location of the hearing with sufficient time for them to prepare.

The parties must inform the Hearing Officer in advance of a hearing whether they intend to bring an Advisor of choice to the hearing; otherwise, the Hearing Officer will provide one without charge to that party.

Hearings may be conducted with all parties physically present in the same location or, at the Hearing Officer's discretion, virtually with technology enabling participants simultaneously to see and hear each other.

Hearing will be recorded, and the Hearing Officer will keep the audio or audio-visual recording or transcript of the hearing and make it available to the parties for inspection and review.

#### b. Relevant evidence

The Hearing Officer may ask questions to the parties and witnesses to weigh the relevance of the evidence. The Hearing Officer will first determine if the question is relevant and will explain any decision to exclude a question as not relevant before a Complainant, Respondent or witness answers a question. The Hearing Officer may adopt rules of order or decorum.

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant unless they are offered to prove that another person, other than the Respondent, committed the alleged conduct, or if the questions and evidence are offered to prove the Complainant's consent.

The Hearing Officer, a party or the Advisor may not compel a party or witness to participate in a hearing. The Hearing Officer may not consider a statement from a party or witness who does not participate in cross-examination when making a determination of liability.

#### c. Advisors

The Complainant or Respondent may not ask questions to the opposing party or witnesses. Advisors may ask questions of the opposing party and witnesses. If a party does not have an Advisor present at the hearing, the Hearing Officer will provide one without cost who may be, but is not required to be, an attorney.

#### d. Weighing of the evidence

The Hearing Officer will objectively evaluate the relevant incriminating and exculpatory evidence to arrive at a determination of liability. In the evaluation, the Hearing Officer may consider, among other things:

- Prior written or oral statements of a party who submitted to the opposing party's questions, but not those of a party who did not submit to the examination.
- Text messages, chats or emails when there is an exchange of messages or a thread of emails in support of a party's answers even if the other party does not submit to the examination.
- Audio or visuals showing the incident even when a party does not submit to the examination.

e. Final determination

The Hearing Officer will use the preponderance of the evidence standard to make the determination of liability and will issue a written determination that includes:

- allegations of sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint to the determination of responsibility including notifications to the parties, interviews, visits to the site, methods used to receive other evidence, and the hearing;
- findings of fact to support the determination;
- University policies that apply to the facts;
- individual findings for each allegation and their respective determination of responsibility;
- procedures and grounds for an appeal; and
- remedies and/or disciplinary sanctions.

The Hearing Officer will send the determination to the parties simultaneously.

**E. Appeal process**

Sagrado offers both parties the opportunity to appeal: (1) a determination of responsibility, or (2) a determination for dismissal.

A Complainant or Respondent may file an appeal within 10 calendar days from receipt the Hearing Officer's written resolution on the following bases:

- a procedural irregularity that affected the outcome;
- new evidence that was not reasonably available at the time the determination of responsibility or dismissal was made that affected the outcome; or
- a conflict of interest or bias for or against the Complainant or the Respondent that affected the outcome.

Once an appeal is received, the Appeal Officer will:

- notify the parties in writing;

- the parties will have 15 calendar days from the date in the Appeal Officer’s notice to submit a written statement in support of, or challenging, the Hearing Officer’s resolution;
- evaluate Hearing Officer’s determination, the case’s record and the parties’ written statements;
- prepare a written resolution with the result of the appeal; and
- send the written resolution simultaneously to both parties.

## **F. Informal resolution process**

The parties may request the Coordinator to initiate a voluntary informal resolution process to resolve the formal complaint at any time after the filing of a formal complaint and prior to reaching a determination regarding responsibility. The Coordinator will refer the request to the Facilitator.

### 1. Notice to the parties

The Facilitator will send a written notice to the Complainant and the Respondent with the following information:

- the allegations;
- the date, time, location of the meeting with sufficient time for them to prepare;
- the details of the informal resolution process including the circumstances under which it precludes them from resuming a formal complaint arising from the same allegations;
- that any party may withdraw from the informal resolution process and resume the grievance process at any time prior to agreeing to a resolution; and
- the consequences resulting from participating in the informal resolution process.

### 2. Informal resolution process not available

The informal resolution process may not be used to resolve a formal complaint when a non-student Respondent sexually harasses a student.

## **G. Closing of the complaint resolution process**

The Coordinator will simultaneously send a written report to the Complainant and Respondent summarizing the relevant facts and the final determination of responsibility and closing the complaint resolution process.

## **IV. Disciplinary sanctions and remedies**

### **A. Finality of the determination of responsibility**

The Hearing Officer's resolution becomes "firm and final" after the time period for filing an appeal has expired or, if a party files an appeal, after the appeal resolution is sent to the parties.

The Hearing Officer's or Appeal Officer's resolution, if a party files an appeal, will include a determination of liability and disciplinary action and/or remedies.

### **B. Non exhaustive list of disciplinary sanctions and remedies**

The disciplinary sanctions and remedies will be determined based on:

- the nature and circumstances surrounding the conduct;
- prior violations or inappropriate behavior;
- the impact to the University community and to those directly affected by the Respondent's actions; and
- prior sanctions for similar conducts.

#### For students:

Sanctions are imposed taking into consideration specific reflection and learning outcomes. Through the application of disciplinary sanctions, students learn to be aware of the consequences of their actions for themselves and others.

A non-exhaustive list of the possible disciplinary sanctions for students includes:

1. Disciplinary probation for a specified period of time for observation and evaluation of the student's behavior.
2. Temporary dismissal that is defined as a separation from the University that allows the student to apply for readmission after a specified period of time if the student meets all the conditions specified at the time of the temporary dismissal.
3. Permanent dismissal defined as a permanent separation from the University with no opportunity for readmission.
4. Other sanctions
  - verbal or written warning
  - apology letter
  - economic fine
  - community service hours
  - educational project or reflection paper
  - referral to support services (for example, Centro Sofía)
  - restriction of certain privileges
  - "hold" on the student account

- restitution of economic damages
- no-contact order
- ban from a specific area in the campus or official activities
- removal from the University residences
- loss of privileges.

Students must comply with the disciplinary sanctions and/or remedies. Failure to comply with the sanctions and/or remedies will be documented and may result in a permanent dismissal.

For employees and faculty members:

The Employee Handbook outlines possible disciplinary sanctions for employees and professors that may include, but are not limited to:

- verbal warning;
- written warning;
- suspension from employment that is defined as a temporary separation from the University with or without pay for a specified period of time; and/or
- termination of employment that is defined as a permanent separation from the University with no opportunity for re-hiring.

For contractors, consultants and suppliers:

Sagrado will contact the contractor or the contractor's supervisor and may request one or more of the following:

- removal of the person from the campus and/or from providing services to the University; and/or
- termination of the contract.

For visitors:

Sagrado may:

- remove the visitor from the campus permanently; and/or
- suspend temporarily or permanently any privileges and services that the visitor may have including entering the campus.

Other disciplinary sanctions and remedies

The disciplinary sanctions and remedies described in this procedure are not exhaustive and do not prevent Sagrado from imposing any and all disciplinary sanctions and/or remedies that it deems necessary and appropriate and/or from applying any and all remedies available under the law.

## V. Questions about this Procedure

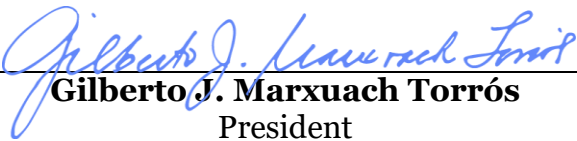
This Procedure is issued by the President of the University, with the advice of the Office of the General Legal Counsel, under extraordinary circumstances due to the emergency of COVID-19 and pursuant to the *Policy for Review and Approval of Policies and Procedures* available at <https://politicassagrado.edu/>.

Questions regarding the scope and interpretation of this Procedure should be directed to the Office of the Title IX Coordinator by email at [tituloix@sagrado.edu](mailto:tituloix@sagrado.edu).

## VI. Reporting violations

Violations to this Procedure should be directed to the Office General Legal Counsel by email: [cameliac.fernandez@sagrado.edu](mailto:cameliac.fernandez@sagrado.edu), or the Office of Internal Audit by email: [auditoriainterna@sagrado.edu](mailto:auditoriainterna@sagrado.edu). Any violations to this Procedure will be addressed in accordance with the Sagrado's policies and procedures.

Universidad del Sagrado Corazón reserves the right to interpret this Procedure in its administration, implementation and enforcement. If there is any ambiguity in any provision of this Procedure, Sagrado reserves the discretion to interpret it in accordance with the purpose for which it was established, the impact on University operations and good faith, unless otherwise provided by law.

  
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**Gilberto J. Marxuach Torrós**  
President