

**American Public University System, Inc.
Title IX Compliance Policy**

1. Introduction

It is the policy of American Public University System, Inc. (APUS) to take prompt and appropriate steps when it is made aware of possible sex discrimination, which may include but is not limited to sexual harassment, that denies or limits on the basis of sex an employee's, student's, or third party's ability to participate in or benefit from APUS's education programs and activities (**Title IX Offense**).¹

Inappropriate conduct that may constitute or otherwise be construed as a Title IX Offense committed against any member of the APUS community is prohibited.

- All Title IX complaints that allege a Title IX Offense that constitutes "sexual harassment" (as that term is defined in Exhibit A) shall be processed in accordance with the Title IX Sexual Harassment Grievance Procedures (**Sexual Harassment Grievance Procedures**) attached hereto as Exhibit B.
- All Title IX complaints involving one or more students that allege a Title IX Offense that does not constitute sexual harassment shall be processed in accordance with the Title IX Generally Applicable Grievance Procedures (**Generally Applicable Grievance Procedures**) attached hereto as Exhibit C.
- All Title IX complaints involving only employees that allege a Title IX Offense that does not constitute sexual harassment shall be processed through Human Resources in accordance with APUS's anti-discrimination and harassment policy as stated in the Employee Handbook.

Notwithstanding the foregoing, if a Title IX complaint involves an individual who is both an APUS student and employee, then the individual's role at the time of the event in question will control. For example, if an individual is both an APUS student and employee and alleges a Title IX Offense that is not sexual harassment against a faculty member from whom the individual is taking a course, then the individual shall be treated as a student and the Generally Applicable Grievance Procedures will be used to process the complaint. Alternatively, if the same individual alleges a Title IX Offense that is not sexual harassment against the individual's manager, then the individual shall be treated as an employee and APUS's anti-discrimination and harassment policy will be used to process the complaint. APUS shall in all instances and in its sole discretion make the decision of whether the complaint will be processed in accordance with the Generally Applicable Grievance Procedures or in accordance with APUS's anti-discrimination and harassment policy, as described above. In all cases, the Title IX Coordinator (hereinafter defined) shall be kept apprised as Title IX complaints are processed and resolved through the aforementioned channels. Whenever an individual alleges "sexual harassment" as defined in Exhibit A, the Sexual Harassment Grievance procedures shall apply.

APUS may offer interim measures (supportive measures) to the complainant or respondent prior to the final outcome of any investigation. APUS's goal is to resolve Title IX complaints promptly and equitably and to provide a safe and nondiscriminatory environment for students, employees, and others.

2. Notice of Nondiscrimination

A notice of nondiscrimination shall be widely disseminated to all students, employees, applicants for admission and applicants for employment, and, if applicable, unions or professional organizations with employment/labor-related agreements with APUS, by being posted on the APUS website and published in electronic publications of general distribution that provide information about APUS's services and policies, which publications may include, but are not limited to, the employee (faculty and staff) handbooks, student

¹ Defined terms, including "sexual harassment," are attached hereto as Exhibit A.

handbook, and student code of conduct. The notice shall state that (a) APUS does not discriminate on the basis of sex in its education programs and activities, (b) APUS is required by Title IX not to discriminate in such a manner, including with respect to admission and employment, and (c) questions concerning Title IX may be referred to APUS's Title IX Coordinator or to the Office for Civil Rights at the United States Department of Education. The notice of nondiscrimination shall include the name or title, office address, telephone number and email address of APUS's Title IX Coordinator.

3. Assistance Following an Alleged Title IX Offense

APUS may offer interim measures (supportive measures) to the complainant and respondent, as necessary, during any criminal or APUS-led investigation into a Title IX complaint and before the final outcome of any APUS-led investigation. To the extent APUS does not routinely offer services that may constitute appropriate interim measures, APUS shall make a good faith effort to enter into memoranda of understanding with support services agencies as may be necessary to meet APUS's Title IX obligations. All such memoranda and activities thereunder shall comply with the requirements under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and its implementing regulations (34 C.F.R. Pt. 99), as each may be amended from time to time.

Any complainant of a Title IX Offense should be aware of the options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other services. Complainants are encouraged to discuss with health care providers, APUS officials, and first responders the option of seeking medical treatment and are encouraged to preserve evidence, which may be necessary to prove a crime has occurred, or to obtain a protective order. A complainant of an alleged Title IX Offense may report such offense to law enforcement agencies or APUS responsible employees, including the Title IX Coordinator. Complainants may, at their choosing, (a) directly notify law enforcement authorities, (b) be assisted by APUS in notifying law enforcement authorities, or (c) decline to notify such authorities. Complainants also may be able to obtain protective, no contact, restraining, or similar lawful orders issued by an appropriate court.

APUS may provide counseling services without charge to each of the complainant and the respondent if APUS determines that counseling is an appropriate interim measure. APUS shall notify each of the complainant and the respondent of their respective options to avoid contact with the other party and change, as appropriate, academic, professional, and extracurricular activities as well as their respective living, transportation, dining, and working situation. APUS shall ensure that the complainant and the respondent are aware of (a) their respective Title IX rights, (b) available support services and resources, and (c) the right to report an alleged crime to local law enforcement. A non-exhaustive list of available assistance options are attached hereto as Exhibit D.

4. Title IX Coordinator

APUS has designated the employees listed below to coordinate APUS's efforts to comply with and carry out its responsibilities under Title IX (the **Title IX Coordinators**). Deputy Title IX Coordinators also have been appointed to support the Title IX Coordinators in fulfilling the duties of the position and shall function as designees of the Title IX Coordinators. As such, any action taken by the Deputy Title IX Coordinator shall be treated as an action taken by the Title IX Coordinator. Student-related Title IX complaints should be sent to the Student Title IX Coordinator, faculty-related Title IX complaints that involve no students should be sent to the Faculty Title IX Coordinator, and staff-related Title IX complaints that involve no students should be sent to the Staff Title IX Coordinator. Title IX complaints that involve both faculty and staff may be submitted to either the Faculty or Staff Title IX Coordinator.

<p>Student Title IX Coordinator <i>Name:</i> Caroline Simpson <i>Email:</i> TitleIX@apus.edu <i>Phone:</i> 703-396-6428 <i>Mailing Address:</i> American Public University System Attn: Caroline Simpson 111 West Congress Street Charles Town, WV 25414</p>	<p>Faculty Title IX Coordinator <i>Name:</i> Mauricia Blackwell <i>Email:</i> FacultyRelations@apus.edu (subject line: Title IX) <i>Phone:</i> 304-724-2853 <i>Mailing Address:</i> American Public University System Attn: Mauricia Blackwell 111 West Congress Street Charles Town, WV 25414</p>	<p>Staff Title IX Coordinator <i>Name:</i> Beth Shipe <i>Email:</i> bshipe@apei.com <i>Phone:</i> 304-724-2461 <i>Mailing Address:</i> American Public University System Attn: Beth Shipe 111 West Congress Street Charles Town, WV 25414</p>
<p>Student Deputy Title IX Coordinator <i>Name:</i> Michelle Newman <i>Email:</i> TitleIX@apus.edu <i>Phone:</i> 703-334-4718 <i>Mailing Address:</i> American Public University System Attn: Michelle Newman 111 West Congress Street Charles Town, WV 25414</p>	<p>Faculty Deputy Title IX Coordinator <i>Name:</i> Lori Turner <i>Email:</i> FacultyRelations@apus.edu (subject line: Title IX) <i>Phone:</i> 304-728-2379 <i>Mailing Address:</i> American Public University System Attn: Lori Turner 111 West Congress Street Charles Town, WV 25414</p>	<p>Staff Deputy Title IX Coordinator <i>Name:</i> Jessica McIntosh <i>Email:</i> JMcIntosh@apei.com <i>Phone:</i> 304-728-1455 <i>Mailing Address:</i> American Public University System Attn: Jessica McIntosh 111 West Congress Street Charles Town, WV 25414</p>

The Title IX Coordinator shall:

- Have knowledge of Title IX requirements, APUS’s Title IX policies and procedures, and all Title IX complaints made to APUS;
- Receive appropriate training to meet his or her Title IX responsibilities;
- Review all Title IX complaints to identify and address any patterns or systemic problems;
- Be accessible to students, employees, and others as appropriate; and
- Not hold job duties that create a conflict of interest with those of the Title IX Coordinator.

5. Reporting Policies and Protocols

This Title IX Policy is intended to make APUS students, employees, and others aware of the various reporting and confidentiality policies available to them to make informed choices about where to turn should they become a victim of a Title IX Offense and how to report problems relating to any subsequent retaliation related thereto.

a. Reporting Options

Any combination of the following options may be used by any individual to report a Title IX Offense:

- i. Criminal Complaint – A complaint filed with local law enforcement officials and with which APUS is not involved.
- ii. Report to Responsible Employee – Reports made to any “responsible employee” (as that term is defined in Exhibit A) must be relayed by the responsible employee to the Title IX Coordinator and will initiate an investigation by APUS in accordance with this Policy.
- iii. Institutional Complaint – A complaint filed with the Title IX Coordinator and upon the receipt of which APUS will initiate an investigation in accordance with this Policy. In the case of alleged sexual harassment, a “formal complaint” (as that term is defined in Exhibit A) must be signed and filed by the complainant or, in some cases, the Title IX Coordinator.
- iv. Privileged and Confidential Reporting - Individuals may make privileged and confidential reports of Title IX Offenses to certain health or mental health providers or pastoral counselors. While criminal complaints, institutional complaints, and reports to responsible employees will generally result in the initiation of an investigation, whether by law enforcement or APUS (unless the complainant requests otherwise of APUS, and APUS is able to honor such request consistent with its Title IX obligations), reports to certain health or mental health providers or pastoral counselors may be privileged and may remain confidential so long as the individual does not represent a threat to himself or herself or to others. Note, however, that not all communications with health or mental health providers or pastoral counselors may be privileged.

b. Responsible Employee Reporting Requirements

- i. Before an individual reveals information to a responsible employee that the individual wishes to keep confidential, the responsible employee should make every effort to ensure that the individual understands: (a) the responsible employee’s obligation to report to the Title IX Coordinator the names of the respondent (if known), complainant, and other parties (if any) involved in the alleged Title IX Offense, as well as relevant facts regarding the alleged incident; (b) the complainant’s option to request that APUS maintain the complainant’s confidentiality, which request APUS will consider consistent with APUS’s responsibilities under Title IX; (c) the complainant’s ability to share the information with counseling, advocacy, health, mental health, and sexual-assault-related service providers who may be able to maintain the

- complainant's confidentiality; and (d) the complainant's right to file an institutional complaint with the Title IX Coordinator and a criminal complaint with local law enforcement.
- ii. Upon receipt of a report of an alleged Title IX Offense, the responsible employee shall promptly report to the Title IX Coordinator all relevant details about the alleged Title IX Offense that the individual has shared and that APUS needs to determine what occurred and how to resolve the situation, including the names of the respondent (if known), the complainant, and other parties (if any) involved, as well as the date, time and location of the alleged Title IX Offense.
 - iii. The responsible employee does not need to (and should not) determine whether the alleged Title IX Offense actually occurred before reporting the alleged Title IX Offense to the Title IX Coordinator.
- c. Requests for Confidentiality
- i. Upon receipt of an institutional complaint or report from a responsible employee, APUS will act promptly. The Title IX Coordinator and other appropriate APUS personnel (if any) shall determine in cooperation with the complainant whether appropriate law enforcement or other authorities should be notified.
 - ii. APUS shall keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. APUS shall maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair APUS's ability to provide the supportive measures.
 - iii. The Title IX Coordinator shall evaluate and determine whether to honor any requests for confidentiality, or requests that an investigation not be pursued. Such requests shall be evaluated based on APUS's responsibility to provide a safe and nondiscriminatory environment for all students, employees, and others.
 - iv. APUS employees shall only disclose information regarding alleged Title IX Offenses on a "need to know" basis to individuals who are responsible for handling APUS's response. In the event APUS determines that it can respect a request for confidentiality, APUS shall take all reasonable steps to respond to the institutional complaint or responsible employee report consistent with the request and to determine what interim measures are appropriate or necessary. In the event APUS determines it must disclose the complainant's identity to a respondent or other party, APUS shall inform the complainant prior to making the disclosure.

6. Investigation Procedures and Protocols

APUS shall process all institutional complaints and reports received from responsible employees, regardless of where the alleged Title IX Offense geographically occurred, to determine whether the conduct involved an APUS education program or activity, or the provision of aid, benefits, or services to APUS students. Upon initiating an investigation, APUS shall notify all individuals who are believed to have documentary, electronic, or tangible evidence to preserve such evidence. APUS may, in its sole discretion, conduct remotely any Title IX investigation, in whole or in part, using electronic and other remote means.

APUS shall coordinate its Title IX investigation with any other ongoing APUS or criminal investigation of the incident. If the fact-finding portion of APUS's investigation is suspended due to the existence of a

criminal investigation, it shall resume promptly once law enforcement officials have completed their evidence-gathering and have authorized APUS to proceed with its investigation.

Title IX prohibits retaliation against an individual because he or she participated or refused to participate, in any manner, in APUS's investigation. APUS shall take steps to prevent retaliation and shall promptly investigate any alleged retaliation, including threats, intimidation, coercion, or discrimination. APUS shall take appropriate steps to address any alleged retaliation consistent with its Title IX obligations. Reports of alleged retaliation shall be processed under the Generally Applicable Grievance Procedures or APUS's anti-discrimination and harassment policy, as appropriate.

7. Grievance Procedures

APUS has jurisdiction over Title IX complaints and has adopted the Sexual Harassment Grievance Procedures and the Generally Applicable Grievance Procedures attached hereto as Exhibits B and C, respectively, to promptly and equitably resolve institutional complaints or reports from responsible employees received by APUS. The Sexual Harassment Grievance Procedures shall be used to address Title IX complaints alleging sexual harassment. The Generally Applicable Grievance Procedures shall be used to address Title IX complaints involving one or more students that do not allege sexual harassment. All employee-only Title IX complaints that do not allege sexual harassment shall be processed by Human Resources in accordance with APUS's anti-discrimination and harassment policy.

8. Prevention, Education and Training

This Policy and related information and training shall be accessible to students and employees with disabilities as well as those who are English language learners. Title IX prohibits retaliation against the complainant, the respondent, anyone who files a third-party report, any witness, or anyone else who otherwise participates in the investigative and disciplinary processes. APUS will take steps to prevent and respond to such retaliation consistent with its Title IX obligations.

APUS shall provide prevention and awareness educational programs to new and existing students and employees. These programs shall include information on (a) Title IX, (b) how to file a Title IX complaint with APUS, (c) resources available to sexual assault victims, and (d) options for reporting an incident of sexual assault to local law enforcement. Training on this Policy and APUS's Title IX obligations will be provided to students and employees. APUS shall consider educational methods that are most likely to help students and employees retain such information. APUS requires that the Title IX Coordinator and any investigators or adjudicators have (a) training or experience in handling Title IX complaints, and, if applicable, (b) training in the operation of the relevant Grievance Procedures.

EXHIBIT A DEFINITIONS

As used in APUS's Title IX Compliance Policy, Title IX Sexual Harassment Grievance Procedures, and Title IX Generally Applicable Grievance Procedures, the phrases and words listed shall have the meanings set forth below:

Actual knowledge - Notice of sexual harassment or allegations of sexual harassment provided to APUS's Title IX Coordinator or any official of APUS who has authority to institute corrective measures on behalf of APUS. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only APUS official with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of APUS. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in Section 4 of this Policy.

Complainant - An individual who is alleged to be the victim of conduct that could constitute sexual harassment. For purposes of APUS's Title IX Compliance Policy, this term also applies to alleged victims of conduct that may not constitute sexual harassment.

Consent - Verbal statements or non-verbal actions which a reasonable person would understand to mean a voluntary agreement to engage in sexual activity. Someone who is incapacitated cannot consent. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent.

Dating violence - Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship. "Dating violence" includes, but is not limited to, sexual or physical abuse or the threat of such abuse, but does not include acts covered under the definition of domestic violence.

Deliberately indifferent - A response to sexual harassment that is clearly unreasonable in light of the known circumstances.

Domestic violence - A felony or misdemeanor crime of violence committed by: (a) a current or former spouse or intimate partner of the victim, (b) a person with whom the victim shares a child in common, (c) a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner, (d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Education Program or Activity - Includes locations, events, or circumstances over which the institution exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by institution.

Formal complaint - A document signed and filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the School investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the School with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information listed in Section 4 of this Policy.

Incapacitation - Any situation in which a person is incapable of giving consent due to the person's age, state of consciousness, use of drugs or alcohol, or an intellectual or other disability.

Intimidation - The intentional act of coercing or frightening someone to engage or not engage in conduct of a sexual nature against that person's will.

Respondent - An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. For purposes of APUS's Title IX Compliance Policy, this term also applies to alleged perpetrators of conduct that may not constitute sexual harassment.

Responsible employee - Includes the Title IX Coordinator and other APUS employees (i) with the authority to institute corrective measures on behalf of APUS, (ii) who have been given the duty of reporting Title IX Offenses by or against students to the Title IX Coordinator or to another appropriate APUS designee, or (iii) whom a student could reasonably believe has this authority or duty.

Retaliation - Intimidation, threat, coercion, or discrimination against any person for the purpose of interfering with their rights and privileges under Title IX and APUS's Title IX Compliance Policy, or because the individual has made a report or complaint or otherwise participated (or refused to participate) in the grievance processes described in this Policy. Retaliation is prohibited by Title IX and this Policy.

Sexual assault - An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

Sexual harassment - Conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the School conditioning the provision of an aid, benefit, or service of the School on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School's education program or activity; or
- (3) "Sexual assault", "dating violence", "domestic violence," or "stalking" as defined herein.

Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person's safety or the safety of others, or (b) suffer substantial emotional distress. As used in this definition, "course of conduct" means two or more acts, including, but not limited to, acts in which the 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; "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling; and "reasonable person" means a person under similar circumstances and with similar identities to the victim.

Standard of evidence - Preponderance of the evidence standard will be used for Title IX proceedings. The burden of proof is met when it is more likely than not that the alleged misconduct occurred.

Supportive measures (i.e., interim measures) - Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to APUS's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or APUS's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. APUS must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of APUS to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Title IX Coordinator - The person designated as such by APUS to coordinate the institution's Title IX compliance efforts, or the person temporarily designated by the Title IX Coordinator to serve in that capacity during the Title IX Coordinator's incapacity or absence from APUS.

Unwelcome conduct - Conduct is unwelcome if an individual did not request or invite it and regarded the conduct as undesirable or offensive. Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.

EXHIBIT B
AMERICAN PUBLIC UNIVERSITY SYSTEM, INC.
TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES

1. Introduction

American Public University System, Inc. (APUS) has adopted a Title IX Compliance Policy (**Policy**), all of the provisions of which are incorporated herein by reference. In accordance with Section 7 of the Policy, APUS adopts and publishes the following Title IX Sexual Harassment Grievance Procedures (**Sexual Harassment Grievance Procedures**) for the prompt, fair, impartial and equitable investigation and resolution of Title IX complaints that allege sexual harassment against a person in the United States:

Sexual harassment - Conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the School conditioning the provision of an aid, benefit, or service of the School on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the School's education program or activity; or
- (3) "Sexual assault", "dating violence", "domestic violence," or "stalking" as defined in Exhibit A.

All Title IX complaints that do not allege sexual harassment shall be processed in accordance with the Title IX Generally Applicable Grievance Procedures (for complaints involving one or more students) or through Human Resources in accordance with APUS's anti-discrimination and harassment policy (for complaints involving only employees). APUS aims to create an investigative report within ninety (90) days of receiving a Title IX complaint and prepare a written determination of responsibility within forty-five (45) days of issuing an investigative report, unless multiple complainants or incidents are involved, or the facts and circumstances of a particular complaint merit additional time, as APUS may determine in its sole discretion and which determination shall be promptly communicated via email to the parties, along with the reasons for the action. All references to "days" in the Policy and any Grievance Procedures shall be interpreted to mean "business days". *APUS may, in its sole discretion, implement remotely any or all portions of these Grievance Procedures using electronic and other remote means.*

These Sexual Harassment Grievance Procedures explain (i) how to report alleged sexual harassment and how to file a Title IX formal complaint, (ii) APUS's Title IX informal resolution, investigative, decision-making, and appeals processes, and (iii) how resulting remedies and sanctions will be imposed. Individuals involved in any portion of the grievance process may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

2. Initiation of a Complaint

a. Filing of a formal complaint

Any person may report alleged sex discrimination to the Title IX Coordinator or to a responsible employee. Once APUS has actual knowledge of alleged sexual harassment, the Title IX Coordinator will promptly contact the complainant to discuss the availability of supportive measures; consider the complainant's wishes with respect to supportive measures; inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and explain the process for filing a formal complaint.

Only a complainant may file a formal complaint alleging sexual harassment against a respondent and requesting that APUS investigate the allegation. In some circumstances and in the absence of the complainant filing the formal complaint, the Title IX Coordinator may sign a formal complaint if it otherwise would be deliberately indifferent for APUS not to proceed with an investigation.

Complainants have the right to file concurrently a criminal complaint with appropriate law enforcement agencies and a formal complaint with APUS. Any formal complaint filed with APUS shall specify to the greatest extent possible the alleged Title IX Offense, the name of the individual(s) who engaged in the alleged Title IX Offense, if known, and such other information as may assist APUS in promptly investigating the alleged Title IX Offense. The complainant may request confidential treatment and the Title IX Coordinator shall evaluate all such requests as set forth in Section 5 of the Policy.

b. Notice of the allegations

Upon receipt or initiation of a formal complaint, APUS will provide the following written notice to the parties who are known: notice of the Sexual Harassment Grievance Procedures; notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time (e.g., identities of involved parties, date and location of incident) and with sufficient time to prepare a response before any initial interview. The written notice will also include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

The written notice additionally will inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence. In accordance with APUS's codes related to honor and ethical conduct, including without limitation, the Student and Faculty Honor Code and Honor Pledge, and the Code of Business Conduct and Ethics, it is a violation to engage in, condone, or assist others in any act of dishonesty. Additionally, it is a violation of the Code of Business Conduct and Ethics to use any reporting procedures in bad faith or in a false or frivolous manner. Any violation of APUS's codes may result in disciplinary action, up to and including expulsion (for students) and termination (for faculty and staff).

If in the course of investigation APUS decides to investigate allegations about the complainant or respondent that are not included in the notice requirements above, then the School will provide notice of the additional allegations to the parties whose identities are known. APUS may consolidate formal complaints of alleged sexual harassment where the allegations arise out of the same facts or circumstances.

c. Dismissal of a formal complaint

APUS must investigate the allegations in a formal complaint. If the conduct alleged in a formal complaint would not constitute sexual harassment even if proven; did not occur in APUS's education program or activity; or did not occur against a person in the United States, then APUS must dismiss the formal complaint with regard to that conduct for purposes of the Sexual Harassment Grievance Procedures. However, such a dismissal does not preclude action under APUS's Title IX Generally Applicable Grievance Procedures, APUS's Student Misconduct Policy, APUS's anti-discrimination and harassment policy, or any other APUS conduct-related policy.

APUS may dismiss a formal complaint or any allegations therein if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by APUS; or specific circumstances prevent APUS from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Where APUS has determined to dismiss a formal complaint, it will promptly notify the parties.

3. Informal Resolution Process

Mediation is never appropriate in cases of alleged sexual assault and shall not be utilized by APUS in such cases. However, in other circumstances, the Title IX Coordinator may informally discuss possible remedies and sanctions with the complainant and the respondent separately to ascertain if a satisfactory informal resolution can be reached, only after a formal complaint is filed and the parties receive a full disclosure of the allegations and options for formal resolution. APUS shall refrain from asking a complainant to resolve problems directly with the respondent.

APUS may facilitate an informal resolution process that does not involve a full investigation and adjudication after providing written notice to the parties that discloses: the allegations; the requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations (provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the formal resolution process and resume the grievance process with respect to the formal complaint); and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

Parties must provide voluntary, written consent to participate in the informal resolution process and at any time may end the informal resolution process and begin the formal investigative process described in Section 4. If an informal resolution can be reached, the remedies and sanctions to which the parties agree shall be imposed. If resolution cannot be reached, the Title IX Coordinator shall proceed with the investigative process described in Section 4.

APUS will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

4. Investigative Process

The Title IX Coordinator or designee (**Investigator**) shall promptly investigate the alleged sexual harassment in accordance with Section 6 of the Policy and additional procedures outlined herein. It is APUS's goal to provide for an adequate, reliable, and impartial investigation and resolution of each formal complaint.

Retaliation against the complainant, alleged perpetrator, witnesses, or any other participant involved in a Title IX investigation is prohibited. In the event APUS is unable to conduct a full investigation, such as when the alleged perpetrator is a visitor to APUS property or is not otherwise affiliated with APUS, APUS shall take steps to provide remedies for the complainant and the broader student and employee populations, as APUS may deem appropriate.

a. Investigation and investigative report

When investigating a formal complaint and throughout the grievance process, APUS will:

- Assume the burden of proof and the burden of gathering evidence. APUS must obtain voluntary, written consent of a party to access records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party.
- Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

- Provide an equal opportunity for the parties to present witnesses and evidence, and to inspect and review any evidence directly related to the allegations raised in a formal complaint.
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- Provide the same opportunities to the parties to have others present during meetings or proceedings (including the opportunity to be accompanied by an advisor of each party's choice) and provide details and advance notice of any meetings or proceedings. APUS may establish restrictions regarding the extent to which an advisor may participate in grievance proceedings and will apply such restrictions equally to all parties.

The Investigator will objectively evaluate all relevant evidence and create an investigative report that fairly summarizes relevant evidence. Prior to completion of the investigative report, APUS will send each party and the party's advisor, if any, the evidence subject to inspection and review and APUS will provide the parties at least ten (10) days to submit a written response, which the Investigator will consider prior to completion of the investigative report. APUS also will provide a copy of the investigative report to each party and the party's advisor, if any, at least ten (10) days prior to a hearing, for their review and written response.

b. Hearing

APUS is required under Title IX to have a live hearing as part of its Sexual Harassment Grievance Procedures. The hearing is conducted by an individual designated as the decision-maker (**Decision-maker**); the Decision-maker cannot be the same individual as the Title IX Coordinator, nor can it be the same individual as the Investigator.

During the hearing, APUS will permit each party's advisor (not the party himself or herself) to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility (**Cross-examination**). Only relevant cross-examination and other questions may be asked of a party or witness, and the Decision-maker will determine the relevance of such questions (and explain any decision to exclude a question as not relevant). If a party does not have an advisor present at the live hearing, APUS will provide an advisor of APUS's choosing to the party, without fee or charge to the party, to conduct cross-examination on behalf of that party. The advisor is not required to be an attorney.

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. If a party or witness does not submit to cross-examination at the live hearing, the Decision-maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

At the request of either party, APUS will conduct the hearing in physically separate rooms with appropriate technology to simultaneously see and hear the proceedings. For all hearings, APUS will create an audio or audiovisual recording or transcript and make it available to the parties for inspection and review.

5. **Decision-Making Process**

The Decision-maker will apply the preponderance of the evidence standard to determine whether the alleged sexual harassment occurred, and issue a written determination regarding responsibility that includes the following:

- Identification of the allegations potentially constituting sexual harassment
- A description of the procedural steps taken, from formal complaint to determination (including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held)
- Findings of fact supporting the determination
- Conclusions regarding the application of the relevant APUS code of conduct policy to the facts
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions APUS imposes on the respondent, and whether remedies designed to restore or preserve equal access to APUS's education program or activity will be provided by APUS to the complainant
- APUS's procedures and permissible bases for the complainant and respondent to appeal (See Section 6 below)

APUS shall concurrently provide the written determination to the parties via email.

6. Appeals

Either party may appeal the dismissal of a formal complaint (or any allegations therein) or a written determination on the following bases:

- Procedural irregularity that affected the outcome of the matter
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
- The Title IX Coordinator, Investigator, or Decision-maker had a conflict or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter

The Office of the Provost will hear any appeal of a student-related complaint and the HR Leadership Team will hear any appeal of a complaint involving only employees and/or non-students (each the **Appellate Body**). An appeal may be submitted via written statement of appeal to the Appellate Body, and must be received by the Appellate Body within seven (7) days following the date on which the parties received notice of the dismissal or determination. The Appellate Body shall notify the other party in writing when an appeal is filed, and give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The Appellate Body shall have twenty (20) days from receipt of the appeal request to grant or deny the appeal by issuing a written determination, or request additional information from the appealing party and the Title IX Coordinator that the Appellate Body deems necessary to decide the appeal request. Regardless of which party files the appeal, the Appellate Body may reverse the dismissal or determination only if the Appellate Body finds that the decision was arbitrary or capricious or was not otherwise supported by the preponderance of the evidence. If the appeal is granted, the Appellate Body shall make such instructions to the Title IX Coordinator as may be appropriate.

The Appellate Body's decision on the appeal shall constitute the final action by APUS, and APUS shall send written notice of the Appellate Body's decision and its finality via email concurrently to the parties. If neither party appeals a dismissal or determination within the seven (7) day appeal window, APUS shall send notice via email concurrently to the parties that the time for an appeal has expired and that the dismissal or determination is deemed final.

Individuals involved in the appeal process cannot be the same individuals as the Title IX Coordinator, Investigator, or Decision-maker for the matter being appealed.

7. Imposition of Remedies, Accommodations, and Sanctions

After a determination has become final, APUS shall take steps necessary to implement it, including the remedies, accommodations, and sanctions. In the event supportive measures are offered to the complainant or respondent at any point prior to APUS's final determination, the Title IX Coordinator may implement such measures, a non-exhaustive list of which are set forth in Exhibit E of the Policy.

Prior to reaching a determination, APUS may remove a respondent from APUS's education program or activity on an emergency basis, provided that APUS has undertaken an individualized safety and risk analysis; determined that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. APUS may place a non-student employee respondent on administrative leave during the pendency of the Sexual Harassment Grievance Procedures.

Exhibit E of the Policy also sets forth a non-exhaustive list of potential remedies for complainants that APUS may impose. Those remedies include but are not limited to the reprimand, suspension, or expulsion of a student respondent, the reprimand, suspension, or termination of an employee respondent, and complainant's options to avoid contact with the alleged respondent and to change academic, professional, and extracurricular activities as well as complainant's living, transportation, dining, and working situation, as appropriate. Examples of counseling, advocacy, and other support services and assistance options also are provided in Exhibit D of the Policy.

Implementation of these Sexual Harassment Grievance Procedures may result in additional remedies for the APUS community, including greater emphasis on student awareness, educational, and professional development courses for students, faculty, and staff, and other steps designed to address the specific issues raised by a Title IX complaint received by APUS.

8. Training

APUS requires that the Title IX Coordinator, Investigator, Decision-maker, or any person who facilitates an informal resolution process receive training on the definition of sexual harassment; the scope of APUS's education program or activity; how to conduct an investigation and grievance process; and how to serve impartially. Such individuals also must receive training on issues of relevance and technology. Training materials promote impartial investigations and adjudications of formal complaints of sexual harassment and do not rely on sex stereotypes. APUS's training materials are available at: <https://www.amu.apus.edu/aboutus/consumer-information/title-ix-training.html>.

EXHIBIT C
AMERICAN PUBLIC UNIVERSITY SYSTEM, INC.
TITLE IX GENERALLY APPLICABLE GRIEVANCE PROCEDURES

1. Introduction

American Public University System, Inc. (APUS) has adopted a Title IX Policy (**Policy**), all of the provisions of which are incorporated herein by reference. In accordance with Section 7 of the Policy, APUS adopts and publishes the following Title IX Generally Applicable Grievance Procedures (**Generally Applicable Grievance Procedures**) for the prompt, fair, impartial and equitable investigation and resolution of Title IX Offenses other than sexual harassment.²

All Title IX complaints involving one or more students that allege a Title IX Offense that does not constitute sexual harassment shall be processed in accordance with these Generally Applicable Grievance Procedures. Title IX complaints involving only employees that allege a Title IX Offense that does not constitute sexual harassment shall be processed through Human Resources in accordance with APUS's anti-discrimination and harassment policy. Notwithstanding the foregoing, if a Title IX complaint involves an individual who is both an APUS student and employee, then the individual's role at the time of the event in question will control. Please refer to the Policy for an illustrative example involving such an individual. APUS shall in all instances and in its sole discretion make the decision of whether the complaint will be processed in accordance with the Generally Applicable Grievance Procedures or in accordance with APUS's anti-discrimination and harassment policy, as described above. APUS aims to create an investigative report within ninety (90) days of receiving a Title IX complaint and prepare a written determination of responsibility within forty-five (45) days of issuing an investigative report, unless multiple complainants or incidents are involved, or the facts and circumstances of a particular complaint merit additional time, as APUS may determine in its sole discretion and which determination shall be promptly communicated via email to the parties, along with the reasons for the action. *APUS may, in its sole discretion, implement remotely any or all portions of these Grievance Procedures using electronic and other remote means.*

These Generally Applicable Grievance Procedures explain (i) how to file a Title IX complaint, (ii) APUS's Title IX informal resolution, investigative, decision-making, and appeals processes, and (iii) how resulting remedies and sanctions will be imposed, all with respect to Title IX Offenses that do not constitute sexual harassment as defined in the Policy.

2. Initiation of a Complaint

Any person may report alleged sex discrimination to the Title IX Coordinator or to a responsible employee. Any person who believes that he or she has been the victim of a Title IX Offense may file a written institutional complaint with the Title IX Coordinator identified in the Policy. Complainants have the right to concurrently file a criminal complaint with appropriate law enforcement agencies and an institutional complaint with APUS. Any institutional complaint filed with APUS shall specify the alleged Title IX Offense, the name of the individual(s) who engaged in the alleged Title IX Offense, if known, and such other information as may assist APUS in promptly investigating the alleged Title IX Offense. The complainant may request confidential treatment and the Title IX Coordinator shall evaluate all such requests as set forth in Section 5 of the Policy.

3. Informal Resolution Process

The Title IX Coordinator may informally discuss possible remedies and sanctions with the complainant and the respondent separately to ascertain if a satisfactory informal resolution can be reached, only after the parties receive a full disclosure of the allegations and options for formal resolution. APUS shall refrain from asking a complainant to resolve problems directly with the respondent. If resolution can be reached,

² See [Exhibit A](#) for defined terms.

the remedies and sanctions to which the parties agree shall be imposed. If resolution cannot be reached, the Title IX Coordinator shall proceed with the investigative process described in Section 4. Any party has the right at any time to end the informal resolution process and begin the formal investigative process described in Section 4.

4. Investigative Process

The Title IX Coordinator or designee shall promptly investigate the alleged Title IX Offense in accordance with Section 6 of the Policy. It is APUS's goal to provide for an adequate, reliable, and impartial investigation and resolution of each institutional complaint. Retaliation against the complainant, the respondent, witnesses, or any other participant involved in a Title IX investigation is prohibited. In the event APUS is unable to conduct a full investigation, such as when the respondent is a visitor to APUS property or is not otherwise affiliated with APUS, APUS shall take steps to provide remedies for the complainant and the broader student and employee populations, as APUS may deem appropriate.

Upon the conclusion of the investigation, the Title IX Coordinator shall determine whether the preponderance of the evidence demonstrates that the alleged Title IX Offense occurred. If the Title IX Coordinator does not so determine, then the complaint shall be dismissed (**Complaint Dismissal**), and the complainant and the respondent shall be notified concurrently in writing of APUS's determination. If, however, the Title IX Coordinator determines that the preponderance of the evidence demonstrates that the alleged Title IX Offense occurred, then the Title IX Coordinator shall notify the complainant and the respondent concurrently in writing of such determination and proceed with the decision-making process set forth in Section 5.

5. Decision-Making Process

If the Title IX Coordinator determines by the preponderance of the evidence that the alleged Title IX Offense occurred, the Title IX Coordinator shall prepare findings of fact and recommended remedies, accommodations, and sanctions (**Findings**). Within ten (10) days of preparing the Findings, the Title IX Coordinator shall use the Findings to determine what, if any, remedies, accommodations, and sanctions for the complainant and respondent, and additional remedies for the APUS community, shall be imposed (**Ruling**).

Within ten (10) days following the Ruling, APUS shall concurrently send notice via email to the parties of the Ruling and of each party's right to appeal pursuant to Section 6. APUS shall notify the parties whether APUS found that the alleged Title IX Offense occurred and any sanctions imposed on the respondent that directly relate to the complainant. APUS shall also notify the complainant of any individual remedies offered or provided to the complainant, but shall not notify the respondent of these individual remedies. If the alleged victim is deceased as a result of the Title IX Offense in question, the next of kin of such victim is treated as the alleged victim and shall be provided written notification as set forth herein.

6. Appeals

Either party may appeal the Complaint Dismissal or Ruling by submitting a written statement of appeal to the Office of the Provost. The appeal must be received by the Office of the Provost within seven (7) days following the date on which the parties received notice of the Complaint Dismissal or Ruling. The Office of the Provost shall have an additional twenty (20) days from receipt of the appeal request to grant or deny the appeal, or request additional information from the appealing party and the Title IX Coordinator that the Office of the Provost deems necessary to decide the appeal request. Regardless of which party files the appeal, the Office of the Provost may reverse the Complaint Dismissal or Ruling only if the Office of the Provost finds that the determination was arbitrary or capricious or was not otherwise supported by the preponderance of the evidence. If the appeal is granted, the Office of the Provost shall make such instructions to the Title IX Coordinator as may be appropriate.

The Office of the Provost's decision on the appeal shall constitute the final action by APUS, and APUS shall send written notice of the Office of the Provost's decision and its finality via email concurrently to the parties. If neither party appeals the Complaint Dismissal or Ruling within the seven (7) day appeal window, APUS shall send notice via email concurrently to the parties that the time for an appeal has expired and that the Complaint Dismissal or Ruling is deemed final.

These appeal processes apply only to student-related complaints; all complaints related only to employees and/or non-students will be processed through Human Resources in accordance with APUS's anti-discrimination and harassment policy.

7. Imposition of Remedies, Accommodations, and Sanctions

After a Ruling has become final, APUS shall take steps necessary to implement the Ruling's remedies, accommodations, and sanctions. In the event interim measures are offered to the complainant or respondent at any point prior to APUS's final determination, the Title IX Coordinator may implement such measures, a non-exhaustive list of which are set forth in Exhibit E of the Policy.

Exhibit E of the Policy also sets forth a non-exhaustive list of potential remedies for complainants, which APUS may impose, and include the reprimand, suspension, or expulsion of a student respondent, the reprimand, suspension, or termination of an employee respondent, and complainant's options to avoid contact with the alleged respondent and to change academic, professional, and extracurricular activities as well as complainant's living, transportation, dining, and working situation, as appropriate. Example counseling, advocacy, and other support services and assistance options are provided in Exhibit D of the Policy.

Implementation of these Generally Applicable Grievance Procedures may result in additional remedies for the APUS community, including greater emphasis on student awareness, educational, and professional development courses for students, faculty, and staff, and other steps designed to address the specific issues raised by a Title IX complaint received by APUS.

EXHIBIT D
NON-EXHAUSTIVE LIST OF ASSISTANCE OPTIONS

APUS Title IX Coordinators	See Section 4 of the APUS Title IX Policy
Counseling Services	<p>Name: Eastern Panhandle Empowerment Center Physical Address: 236 W. Martin Street Martinsburg, WV 25401 Telephone No.: (304) 263-8522; 24-hour Hotline: (304) 263-8292</p> <p>Name: ACTS Helpline (formerly Sexual Assault Victim’s Advocacy Service) Physical Address: 13928 Jefferson David Hwy #C Woodbridge, VA 22191 Telephone No: 24-hour Hotline: 703-368-4141</p>
Healthcare Services	<p>Name: Eastern Panhandle Empowerment Center Physical Address: 236 W. Martin Street Martinsburg, WV 25401 Telephone No.: (304) 263-8522; 24-hour Hotline: (304) 263-8292</p> <p>Name: ACTS Helpline (formerly Sexual Assault Victim’s Advocacy Service) Physical Address: 13928 Jefferson David Hwy #C Woodbridge, VA 22191 Telephone No: 24-hour Hotline: 703-368-4141</p>
Emergency Medical Services	In an emergency always dial 9-1-1
Campus Security/Police Department	<p>Name: Charles Town Police Department Physical Address: 661 S. George St. Charles Town, WV 25414 Email Address: ctpdinfo@charlestownwv.us Telephone No.: (304) 725-2714</p>
Local Police Department	<p>Name: Charles Town Police Department Physical Address: 661 S. George St. Charles Town, WV 25414 Email Address: ctpdinfo@charlestownwv.us Telephone No.: (304) 725-2714</p>
Local Sheriff’s Office	<p>Name: Jefferson County Sheriff-Sheriff Pete Dougherty Physical Address: 102 Industrial Blvd. Kearneysville, WV 25430 Telephone No.: 304-728-3205</p> <p>Name: Charles Town Police Department-Chief Chris Kutcher Physical Address: 661 S. George St. Charles Town, WV 25414 Email Address: ctpdinfo@charlestownwv.us Telephone No.: (304) 725-2714</p>
State Police	<p>Name: West Virginia State Police Physical Address: 409 Industrial Blvd. Kearneysville, WV 25430 Telephone No.: (304) 724-7986</p>

EXHIBIT E
**POSSIBLE SANCTIONS OR SUPPORTIVE MEASURES THAT APUS MAY IMPOSE
FOLLOWING THE RESULTS OF ANY SCHOOL DISCIPLINARY PROCEEDING UNDER THIS
POLICY**

The following sets forth a non-exhaustive list of potential remedies for complainants, which APUS may impose. Possible sanctions include the reprimand, suspension, or expulsion of a student respondent, the reprimand, suspension, or termination of an employee respondent and complainant's options to avoid contact with the respondent and to change academic, professional, and extracurricular activities as well as complainant's living, transportation, dining, and working situation, as appropriate.

APUS may provide immediate steps and supportive measures to ensure the safety and well-being of the complainant or respondent, such as the ability to move office locations or on-campus housing arrangements, change work schedules, alter academic schedules, withdraw from or retake a class without penalty, and access to academic support (e.g., tutoring). APUS may also be able to provide additional supportive measures while an investigation is pending, such as no contact orders and a change in office space arrangements or course schedule. Any supportive measures shall be identified and implemented by APUS in its sole discretion and based on the then-known facts and circumstances of a particular Title IX investigation.