

# Procedural Guidelines for Responding to Allegations Implicating: WSU Executive Policy #15, The Policy Prohibiting Discrimination and Harassment

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## I. Purpose

- A. Compliance and Civil Rights (CCR) is WSU's central authority for intake, investigation, and response to allegations that implicate the [WSU Policy Prohibiting Discrimination and Harassment, Executive Policy #15 \(EP 15\)](#). These procedural guidelines are flexible and may be adapted on a case-by-case basis to promote a prompt, impartial, thorough, and effective process.

## II. Scope

- A. Consistent with [Executive Policy #26](#), CCR has the sole jurisdiction to investigate matters concerning [EP 15](#) and other civil rights compliance requirements, including: Title IX Compliance, Americans with Disabilities Act (ADA)/Section 504 (Rehabilitation Act of 1973) Compliance, Clery Act (34 CFR 669.46) Compliance, Affirmative Action/EEO Compliance, and Washington Law Against Discrimination (WLAD) (RCW 49.60) compliance, unless specifically delegated or assigned to another office or individual by the President or the CCR Director. Generally, these processes will apply to matters implicating any policy within the purview of CCR.
- B. If a complaint extends beyond CCR's jurisdiction, CCR may refer the complaint to another WSU office and/or collaborate with that office to complete the Investigation. If the complaint does not involve WSU community members or have sufficient nexus to WSU's operation, activities, or mission, CCR may refer the matter to an outside entity or agency, as appropriate and consistent with applicable privacy laws. WSU community members may include, but are not limited to, employees, students, volunteers, vendors, contractors, affiliates, visitors, and any other person connected to the university.

## III. Definitions

- A. Reporting Party: Any individual who makes a Report to CCR, the Title IX Coordinator, and/or the ADA Coordinator. A Reporting Party may be anonymous, the Complainant, or reporting on behalf of a Complainant.
- B. Report: An allegation of conduct that implicates EP 15, or another policy within the purview of CCR, that is reported by a Reporting Party to CCR.
- C. Closing Document: A document issued by CCR or an external investigator or facilitator, which may include an investigative outcome, an informal resolution agreement, dismissal of a complaint, or some other document concluding CCR's role regarding a Formal Complaint.
- D. Complainant: Any individual who is alleged to have been the victim of conduct implicating EP 15.
- E. Formal Complaint: is an allegation of conduct that implicates EP 15, or another policy within the purview of CCR, which is submitted to CCR through the formal complaint process described in section VII below.
- F. Respondent: An individual who has been reported to be the perpetrator of conduct that implicates EP 15, either through a Report or Formal Complaint process.
- G. Supportive Measures: Non-disciplinary, non-punitive individualized services offered as appropriate, and where reasonably available, without fee or charge to a party under EP 15.
- H. Informal Resolution: May include, but is not limited to, conduct management plans or resolution agreements, verbal or written counseling, departmental resolutions, alternative dispute resolutions, mediation (if available), and/or additional required training.

- I. Investigation: A formal investigative process by a trained CCR investigator, or their designee, to gather evidence regarding allegations implicating EP 15.
- J. Title IX Coordinator: In this document, Title IX Coordinator refers to an employee tasked with Title IX responsibilities and may include the Title IX Coordinator or a Title IX Deputy Coordinator.
- K. Conflict of Interest: A personal interest, financial, familial, professional, or otherwise, that is reasonably likely to impair, or reasonably appear to an objective, outside observer to impair, an investigator's, Title IX Coordinator's, or a CCR Appeals Committee member's independent, unbiased judgment in reviewing the matter.
- L. Bias: A prejudice for or against a person or persons generally or individually.
- M. Intake Consultation: A meeting between a CCR representative and a Reporting Party or Complainant held for the purpose of discussing university policies, procedures, and resources.
- N. Investigative Interview: A formal meeting between a CCR trained investigator and a Witness, Complainant, or Respondent for the purpose of gathering and documenting evidence relevant to an Investigation.

## IV. Reports

- A. Reports may be made in person, by phone, by email, in writing, or by using CCR's online report form, which allows for anonymous reporting, 24 hours a day, 7 days a week.
- B. A Report can be made by a Complainant or a third party.
- C. In most cases, Reports trigger a university response, as defined in the below section, to the reporter, or in cases of a third party report, to the potential Complainant.

## V. Response to Reports

- A. Upon receiving a Report or a request for an Intake Consultation, CCR will respond promptly by providing the Reporting Party or Complainant, as appropriate, with information in writing about:
  - 1. The availability of Supportive Measures, which are available with and without filing a Formal Complaint;
  - 2. The process for filing a Formal Complaint;
  - 3. An explanation that the Complainant's wishes with respect to Supportive Measures will be considered;
  - 4. Information about EP 15 and CCR's Procedural Guidelines; and
  - 5. Additional resources available to the complainant, including the option to report crimes to law enforcement.
- B. Generally, upon receipt of a Report, CCR will also attempt to schedule an initial Intake Consultation with the Reporting Party or the Complainant. During this meeting, CCR will generally do the following:
  - 1. Inform the Reporting Party or the Complainant that they may request to remain anonymous during an initial Intake Consultation.
  - 2. If willing, obtain identification and contact information from the Reporting Party or the Complainant.
  - 3. Explain the availability of Supportive Measures, which are available with and without filing a Formal Complaint.
  - 4. Explain the process of filing a Formal Complaint and provide an overview of the Informal Resolution and Investigation processes.
  - 5. Explain the role of CCR as a neutral investigator and/or facilitator for an Informal Resolution.

Explain that CCR cannot make a determination about the veracity of a Report, without engaging in a formal Investigation. When CCR conducts an Investigation, CCR seeks to determine the facts surrounding the allegation and whether those facts constitute a violation of [EP 15](#), or other policies within the purview of CCR.

6. Explain alternative options that may be available to the Complainant, including, but not limited to, confidential resources available on-campus and within the community that may provide counseling and support to the Complainant. Explain that the Complainant's preferences are considered when evaluating alternative options.
7. Explain the processes CCR may use for responding to the allegation, which may include the steps involved in pursuing an Informal Resolution or a formal Investigation, among other options.
8. Explain that CCR takes participants' privacy seriously, but limitations exist on confidentiality. Those limitations include:
  - i. Notice: When conducting an Investigation, CCR will provide the Complainant(s) and the Respondent(s) with notice of the allegations and an opportunity to respond. This notice may include the identity of the Complainant, the Respondent, and/or witnesses. Similarly, when facilitating an Informal Resolution, CCR will provide the notice of the allegations to the Complainant and the Respondent, which again may include the identity of the Complainant, the Respondent, and/or witnesses.
  - ii. Public Records: Because WSU is a state agency, CCR's files may be subject to public records requests. The WSU Public Records Office will review all documents submitted under a public records request and will redact information where legally permissible, such as student identifying information.
  - iii. Mandatory Reporting to Law Enforcement: CCR is required to report suspected child abuse, elder abuse, or abuse of persons with diminished capacity to law enforcement agencies. If the Complainant is under the age of 18, CCR may be required to report information to law enforcement.
  - iv. Clery Act Reporting: CCR is required to report statistical information related to certain types of crimes occurring on campus for inclusion in the WSU Annual Fire and Security Report. These reports do not include the names of the involved parties.
9. CCR will provide information concerning EP 15 and/or other CCR policies, including information about the provision prohibiting retaliation and/or interference (see EP 15 for these definitions) with an Investigation, and explain that retaliation and/or interference is prohibited towards any participant in a matter and may be considered a separate and distinct violation of university policy. Retaliatory and interfering conduct should be reported immediately to CCR and will be addressed promptly, effectively, and equitably.
10. Explain the processes CCR uses for documenting information. CCR will inform the Reporting Party(ies) or Complainant(s) and any other individuals interviewed during the Intake Consultation or initial assessment phase that CCR may take some limited notes during meetings and will maintain some basic information in CCR's records about the concerns. More thorough documentation would occur during an Investigation, following a Formal Complaint (see VII).
  - i. CCR will inform participants that notes will be taken by the investigator or by utilizing transcription software, where available. In order to best protect the privacy of participants and to prevent further harm to participants through unnecessary dissemination, CCR will not maintain audio and/or video recordings of interviews. Any audio and/or video recordings created by the transcription software for the purposes of creating a transcript will be destroyed after the transcript is completed (as per Disposition Authority Number

50012). Participants will be informed of the means of note-taking, either hand-written, typed, or utilizing transcription software. CCR Investigators will review their interview notes after each meeting (transcription software may generate a transcript with some mistakes), and Complainants and Respondent will have an opportunity to review investigative interview notes or transcripts during the evidence review stage of an Investigation (see C(9) below).

11. For Complainants, after the Complainant indicates that they understand CCR's process and confidentiality measures, CCR will ask the Complainant whether or not they feel comfortable sharing information with CCR for the purposes of an Intake Consultation. Information received from a Complainant during an Intake Consultation will generally be used in consultation with the Complainant to determine available resources and grievance options. In rare circumstances, CCR may need to proceed with a formal complaint, even where a Complainant does not wish to participate (see VII(D) below)

12. For Complainants, after the Complainant indicates that they understand CCR's process and confidentiality measures, CCR will ask whether or not they would like to file a Formal Complaint. CCR will provide the Complainant with the electronic or physical Formal Complaint form.

1. Note: Complainants do not need to attend an Intake Consultation to file a Formal Complaint. The Formal Complaint form will be available 24/7, as described in EP 15.

## VI. Conflict Review

A. In all matters received by CCR, the CCR director will evaluate whether a Title IX Coordinator or CCR investigator have a Conflict of Interest or Bias for or against Complainants or Respondents generally, or an individual Complainant or Respondent. A Title IX Coordinator or a CCR investigator will not participate in an Investigation in which they have a conflict of interest or bias. If the conflict cannot be managed internally to CCR, the allegation may be referred to WSU Human Resource Services (HRS), an external investigator, or another appropriate office, to supervise the Investigation or to conduct an independent Investigation as appropriate.

## VII. Formal Complaints

- A. CCR provides a Formal Complaint process that is available 24 hours per day, 7 days per week. The Formal Complaint form can be accessed via [CCR's Sharing Concerns page](#), via email, or a paper copy can be provided in-person or via postal mail. In order to file a Formal Complaint, it must:
1. Be filed by the Complainant in the matter or the CCR Director/Lead Title IX Coordinator (e.g. complaints may not be filed by third parties, although third parties may submit Reports, as described in the above section, to be considered for filing by the CCR Director/Title IX Coordinator);
  2. Include the Complainant's digital or physical signature or otherwise indicate that the Complainant is the person filing the formal complaint, or, if filed by the Title IX Coordinator, be signed by the Title IX Coordinator.
- B. Complainants may indicate their preferred resolution, either an Informal Resolution or Investigation, in the Formal Complaint form; Respondents may also indicate their preferred resolution. CCR will consider their preferred resolution, procedural requirements, the safety and security of the WSU community, and whether or not the parties mutually agree to a specific process, in determining a university response.

C. The Title IX Coordinator/CCR Director may also make a Formal Complaint on behalf of a party or parties, or

where sufficient information is received from a third party. The Title IX Coordinator/CCR Director will make this determination with full consideration of the impact of the Investigation on the Complainant and the Respondent, the potential risk to the campus community, and the likelihood of a Formal Complaint's successful resolution.

- D. In limited circumstances, the Title IX Coordinator/CCR Director may determine that it is necessary to proceed with an Investigation even where the Complainant does not wish to participate, particularly where there is an ongoing safety threat to the campus or local community. In cases where CCR proceeds with an Investigation without participation by the Complainant, CCR will notify the Complainant in advance of issuing notice, and will take great care to address the Complainant's concerns, if any.

## VIII. Formal Complaint Assessment

- A. CCR will review all Formal Complaints to determine if they implicate EP 15. In all matters, CCR will determine whether an Investigation or Informal Resolution is appropriate. CCR's review includes the following steps:
1. Depending on the information provided, CCR may request additional information from the Complainant, which may include identifying other possible sources of information, such as the names and contact information for witnesses and/or individuals from whom CCR may obtain additional information.
  2. CCR will request and consider the Complainant's input regarding their preferred resolution path.
  3. CCR will assess whether the alleged conduct, if true, would constitute sexual harassment as defined by Title IX and whether the Formal Complaint would be within the university's Title IX jurisdiction, as defined by EP 15 B.
    - i. If so, CCR may initiate an Investigation or Informal Resolution, taking into consideration the participants' preferred resolution.
    - ii. If not, CCR will dismiss the Formal Complaint under the Title IX Violation sexual harassment category, but may proceed under other provisions of EP 15. Dismissals under the Title IX Violation sexual harassment category may be triggered by:
      - a. The alleged conduct does not meet EP 15 B's Title IX sexual harassment definitions described under EP 15 B's Title IX Violation section.
      - b. The alleged conduct did not occur within WSU's educational program or activities, as defined in EP 15 B.
      - c. The alleged conduct occurred against a person outside the United States.
      - d. The Complainant is not participating in or attempting to participate in the university's educational program or activity.
    - iii. Participants may appeal CCR's determination that a Formal Complaint does not constitute Title IX Sexual Harassment or fall within the University's Title IX jurisdiction (see Appeal of a Dismissal of a Formal Complaint of Title IX Sexual Harassment).
  4. CCR will assess whether the alleged conduct may constitute Other Violations, as defined by EP 15 B, or any of the violations defined in EP 15 A.
    - i. If so, CCR may proceed with an Investigation or Informal Resolution, taking into consideration the participants' preferred resolution.
    - ii. If not, CCR will dismiss the Formal Complaint.
  5. In all matters, CCR may dismiss the Formal Complaint if:
    - i. Specific circumstances prevent an investigator from gathering evidence sufficient to make a

determination.

- ii. The Respondent is no longer enrolled or employed at WSU, and WSU no longer has authority over the Respondent. However, CCR will not dismiss a Formal Complaint where a Respondent disenrolls or ends their employment after learning of a Formal Complaint or Investigation.
  - iii. The alleged conduct is outside the scope of CCR's investigative authority or jurisdiction.
  - iv. A Complainant requests to withdraw their Formal Complaint to the Title IX Coordinator, and the Title IX Coordinator determines a dismissal is appropriate under the circumstances and in accordance with state and federal laws and regulations.
6. In all matters, CCR will discuss the availability of Supportive Measures, as defined in EP 15, with the Complainant and the Respondent, as appropriate. CCR may collaborate with supervisors, academic units, Human Resource Services (HRS), the Division of Student Affairs, and/or other appropriate offices or individuals to facilitate the implementation of Supportive Measures to ensure safety and mitigate the effects of the alleged conduct. Any Supportive Measures will be carefully crafted to ensure, to the extent possible, that the needs and concerns of all persons involved are met.
7. If a Complainant requests to remain anonymous, the CCR Director/Lead Title IX Coordinator will consider how to proceed, taking into account the following:
- i. The wishes of the Complainant,
  - ii. WSU's commitment to provide a non-discriminatory environment,
  - iii. Individual and campus safety, and
  - iv. The right of the Respondent(s) to have sufficient notice of the allegations.
8. In some circumstances, respecting a request for anonymity by the Complainant may mean an Investigation cannot occur. In these circumstances, CCR will inform the Complainant of this situation, and provide the Complainant with an opportunity to reconsider their anonymity. In most circumstances, the Complainant's preferences for anonymity will be honored, even where that means an Investigation cannot ensue. In limited circumstances, where the CCR Director/Lead Title IX Coordinator determines that an Investigation is necessary, the Complainant will be informed, prior to disclosure, that identifying information may be shared as necessary for the Investigation process, which may include listing their name in a notification letter to the Respondent(s).
- B. WSU's policies in these matters are not designed to hamper educational discussions or academic freedom, including topics which may be deemed sensitive or controversial to some.
- C. False Statements are prohibited and may constitute a violation of [EP 15](#). A Formal Complaint will not be considered false solely because it cannot be corroborated.

## IX. Formal Complaint Processing

- A. **Notice of Informal Resolution or Investigation:** Generally, upon receipt of a Formal Complaint in which a Respondent can be identified and which is not dismissed, and which CCR has determined is appropriate for an Investigation or Informal Resolution, CCR will provide notice to the Complainant(s) and the Respondent(s). The notice shall generally include:
1. Information on the implicated university policy, EP 15 and CCR's Investigation and Informal Resolution processes.
  2. A brief summary of the allegations, notice that CCR is initiating a formal university process, any available information on process preferences CCR has received regarding the Informal Resolution or Investigation processes, and information on how to share process preferences to CCR.
  3. Notice that parties will have sufficient time to prepare responses or to prepare for any interviews,

meetings, or hearing, of which they will be notified in writing of the date, time, location, participants, and purpose. In general, for CCR investigative interviews, CCR will provide 10 days' notice, but individuals may request additional time to prepare for good reason.

4. Notice that the parties may have an advisor of their choice participate during the Investigation or Informal Resolution, and that the advisor may be an attorney.
5. A provision prohibiting retaliation and/or interference with an Investigation, explaining that retaliation and/or interference is prohibited towards any participant in a matter and may be considered a separate and distinct violation of university policy. Retaliatory and interfering conduct should be reported immediately to CCR and will be addressed promptly, effectively, and equitably. *See EP 15.*
6. A provision prohibiting knowingly making a false statement or knowingly submitting false information during the grievance process. *See EP 15.*
7. Information on Supportive Measures and that Supportive Measures are available to both parties and will be considered and implemented based on the information available to the university.
8. Notice that participating in an Formal Complaint process means that WSU will maintain records, including investigative, informal resolution, hearing, and appeals records. These records may be shared as required under university policy and on a need-to-know basis, or as permitted by regulation or law.
9. Limitations on confidentiality, including that information may be maintained or shared, under public records requirements.
10. Notice that WSU will not restrict either party from discussing the allegations under Investigation or gathering or presenting relevant evidence.
  - i. This provision does not immunize the parties from the prohibition on retaliation or interference, and does not prohibit WSU from imposing reasonable, non-punitive requirements on parties to prevent disruption in an academic or work setting.
11. 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.
12. The notice will also include the following information on Informal Resolutions, whether or not an Informal Resolution is being pursued:
  - i. Notice that participating in an Informal Resolution is voluntary.
  - ii. Notice that Informal Resolutions may result in disciplinary measures designed to punish the Respondent.
  - iii. A description that either party may withdraw from the Informal Resolution process and resume the grievance process with respect to an Investigation, at any point prior to an agreed upon resolution (unless the Formal Complaint is withdrawn or dismissed for some other reason), and that once the Informal Resolution is agreed to, it is binding, meaning that the parties may not initiate the formal complaint process for concerns arising from the same allegations which were resolved in the Informal Resolution process.
  - iv. Notice that an Informal Resolution will not proceed, without both parties voluntary, written consent.
  - v. A copy of the consent form for an Informal Resolution, and the date for the requested response.

- vi. The requirements of the Informal Resolution process.
  - vii. Any consequences resulting from participating in the Informal Resolution process, including that the records will be maintained or could be shared.
  - viii. If both parties voluntarily consent to an Informal Resolution, the parties are required to respond to requests or proposals from the Informal Resolution facilitator within 5 calendar days to ensure the process is resolved in a timely fashion; late responses may result in a return to the Investigation. Requests for extensions may be granted by the Informal Resolution facilitator for a showing of good cause.
13. The notice will also include the following information on Investigations, whether or not an Investigation is being pursued:
- i. A brief description of CCR's role as a neutral investigator and its investigative process.
  - ii. A brief description of the disciplinary process, including information on the relevant student or employee code or manual.
  - iii. Notice that the parties will have an opportunity to review and inspect all evidence collected by CCR and will then have an opportunity to provide a written statement to CCR to be considered, prior to publication of a Closing Document.
  - iv. Notice that when proceeding with an Investigation, if a Respondent would like to respond to the notice, the Respondent must submit their written statement and/or participate in an investigative interview within 30 days of the date of notice or 30 days after the parties have determined they do not want to proceed with an Informal Resolution, whichever is later. Requests for extensions may be granted on a limited basis by the investigator for a showing of good cause; any such requests will also be considered in light of the need to complete the Investigation in a timely fashion.

**B. Other notice provisions:**

1. If during the course of an Investigation, CCR decides to investigate additional allegations about the Complainant or the Respondent that are not included in this notice, CCR will provide additional notice to the parties whose identities are known.
2. CCR may consolidate formal complaints regarding allegations against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations arise out of the same facts or circumstances.

**C. Informal Resolution Process (not available for allegations of an employee engaging in Title IX sexually harassment of a students, see EP 15):** After providing notice of an Informal Resolution, CCR may proceed with an Informal Resolution, if appropriate, only after receiving voluntary, written consent from both parties.

1. An Informal Resolution may differ depending on the alleged conduct. Options for Informal Resolutions are listed in EP 15.
2. Parties may have an advisor, including an attorney, participate during an Informal Resolution, but it is not required.
3. CCR may work with the Division of Student Affairs, HRS, the Office of the Provost, or the individual department affected in resolving a matter under the Informal Resolution process.
4. Informal resolution may include provisions designed to punish the Respondent.
5. Prior to an agreed resolution, either party may withdraw from the Informal Resolution process and resume an Investigation.
6. Where a party withdraws from the Informal Resolution process, CCR will resume an Investigation, unless the Formal Complaint is withdrawn or dismissed for some other reason.

7. Upon entering into an Informal Resolution agreement, the agreement is binding on the parties and neither party may resume the grievance process.
  8. Agreement provisions will be considered with respect to the campus safety, including expulsion, suspension, or termination.
  9. CCR will document and maintain records of all Informal Resolutions.
  10. Informal Resolution Timeline: CCR seeks to balance the need to promptly complete an Informal Resolution after receipt of a Formal Complaint with the need to thoroughly resolve, arbitrate, mediate, or arrange for an alternative dispute resolution. Generally, CCR will complete an Informal Resolution within 60 days after putting the parties on notice of the Informal Resolution process. The length of an individual Informal Resolution varies depending on, but not limited to, the participation of the parties, the Informal Resolution process selected, and the provisions being agreed upon. For good cause, CCR may extend these deadlines. If it does so, CCR will provide written notice to parties when the timeline for an Informal Resolution is changed and the reason for the delay. Should parties withdraw from an Informal Resolution process, prior to an agreed resolution, the time spent on an Informal Resolution will not count as part of the Investigation timeline.
- D. **Emergency Removal:** Emergency removals or administrative removal may be appropriate pursuant to the provisions of the Standards of Conduct for Students, the faculty manual, or the relevant employee handbook.
- E. **External Investigator:** WSU may elect to contract with an external investigator or department to complete an Investigation or Informal Resolution process under EP 15 and these Procedural Guidelines. In such cases, the external investigator or facilitator will follow WSU policies and procedures including, but not limited to, [EP 15](#) and these Procedural Guidelines in conducting the Investigation or Informal Resolution process. The external investigator or facilitator may consult with the CCR Director, the WSU Title IX Coordinator, the WSU ADA Coordinator, or a designated CCR investigator for questions about WSU policies, processes, precedent, and resources as appropriate. The external investigator or facilitator shall issue a Closing Document of the Investigation or Informal Resolution process, as well as provide evidence obtained as part of an Investigation, to the CCR Director, or in the case that the CCR Director is determined to have a potential conflict of interest, to the Chief Compliance & Risk Officer, or the WSU President, or the WSU Board of Regents as appropriate.
- F. **Investigation Process:** During its processing of the Investigation, CCR will make attempts to gather all relevant evidence. The CCR investigator will generally do the following:
1. Determine what evidence will be needed to determine whether the allegation(s) is/are supported, including relevant documents, witnesses to interview, and/or other evidence.
    - i. Both parties will have an equal opportunity to present witnesses and evidence.
  2. Request the names and contact information of witnesses, and request additional evidence such as written statements, documentary evidence, video/audio recordings, treatment records, police reports, etc., which the parties or witnesses possess.
    - i. If treatment records are relevant, the CCR investigator must request a party's voluntary, written consent to obtain and use as evidence a party's treatment records (e.g. records maintained by a medical provider). Parties will be informed that if provided, treatment records will become part of the investigative evidence file and may be reviewed and inspected by both parties.
    - ii. The parties and witnesses may submit written statements in lieu of or in addition to a formal interview, but they are not required.
  3. Interview the Complainant, the Respondent, and relevant witnesses, if possible, and if they have not indicated a preference to submit a written statement. Requests to reschedule an interview may be

granted by the investigator upon showing of good cause. Where participants are non-responsive to requests to be interviewed, the investigator will proceed with the Investigation without their statement, in order to complete the Investigation in a timely fashion. All interviewees will be provided with information on CCR's Procedural Guidelines, EP 15, and limitations on confidentiality.

- i. In matters involving more than one potential Complainant and/or Respondent, CCR will usually seek to conduct initial interviews with each Complainant and/or Respondent, individually.
  - ii. In order to best protect the privacy of investigation participants and to prevent further harm to investigation participants through unnecessary dissemination, CCR will not maintain audio and/or video recordings of interviews. However, for interviews associated with a Formal Complaint, CCR may utilize transcription software, where available. Any audio and/or video recordings created by the transcription software for the purposes of creating a transcript will be destroyed after the transcript is completed (as per Disposition Authority Number 50012). Participants will be informed that transcription software may generate a transcript with some mistakes. CCR Investigators will review the transcript after each meeting, and Complainants and Respondents will have an opportunity to review investigative interview transcripts during the evidence review stage of an Investigation (see C(9) below). Where transcription software is not available, CCR Investigators will take notes, handwritten or typed, which the Complainant and the Respondent may review during the evidence review stage of an Investigation.
4. Treat all witnesses, the Complainant, and the Respondent with care, dignity, and respect, and provide information about available resources, as needed.
5. Explain to the Complainant and the Respondent that they can share their preferred resolution path, and that their input will be considered.
6. Obtain all reasonably available relevant documentation, which may include, but is not limited to, WSU records, email and text messages, social media messages and postings, correspondence, computer files, and notes. Extensions or delays on obtaining evidence may be granted by the Investigator for good cause. In order to complete the Investigation in a timely manner, requests for extensions or delays must be considered in light of the overall length of the Investigation.
7. When appropriate, conduct follow-up interviews with the Complainant and the Respondent to respond to additional information or to clarify statements. When appropriate, provide the Complainant, the Respondent, and supervisors updates regarding the status of the Investigation.
8. Allow the parties' advisor to participate throughout the process. However, CCR will direct all communications to the party directly, and interview questions will be asked of the party directly.
  - i. Disruptive advisors engaging in an abusive or non-respectful manner may be asked to leave interview meetings.
9. After the initial Investigation has been completed, both parties and their advisors will be provided with an equal opportunity to inspect and review any evidence obtained as part of the Investigation. Parties will have ten days to review the evidence and submit any additional written statements to the investigator, for consideration prior to publication of the final Closing Document.
  - i. CCR may redact information which is not directly related to the Investigation, particularly where the information poses a safety risk to one or both of the parties (e.g. a personal home address or telephone number may not be relevant to the allegations in an Investigation).
  - ii. CCR will not provide evidence that was illegally obtained or unlawfully created under Washington state law.
  - iii. CCR will not provide information protected by attorney-client privilege.

10. Investigation Timeline: CCR seeks to balance the need to promptly complete Investigations after receipt of a Formal Complaint with the need to conduct a thorough Investigation. Generally, CCR will complete the information gathering portion of an Investigation within 60 days, and will then provide the parties with access to the collected evidence, for which the parties will then have 10 days to review and return an additional written statement, if desired. At that time, CCR will generally issue a Closing Document to the parties involved in an Investigation within 30 days of receiving the parties' written statements. The length of an individual Investigation varies depending on, but not limited to, the number of witnesses to be interviewed, the extent of documentation to be reviewed, the type of alleged conduct, the length of time over which the alleged conduct has occurred, and whether new evidence or information is provided by the parties after they receive access to the evidence (which may necessitate additional investigation). For good cause, CCR may extend these deadlines. If it does so, CCR will provide written notice to parties when the timeline for an Investigation is changed and the reason for the delay.

## **G. Completion of Investigation:**

1. Standard of Evidence: CCR applies the preponderance of the evidence standard when evaluating allegations of policies under its purview (i.e. "more likely than not").
2. Closing Communications: CCR will communicate with the Complainant(s), the Respondent(s), and relevant supervisors, administrators, and/or other appropriate members of the WSU community, as needed, when a matter is ready to close via email, phone, video/audio conference, or in-person meeting. During this communication, the investigator will generally provide information about the status of the Investigation, provide information on the next steps in the grievance process, and answer questions, as needed.
3. Closing Document: Where appropriate, the Closing Communication will include a Closing Document, which is provided to the Complainant(s), the Respondent(s), and relevant supervisors, administrators, and/or other appropriate members of the WSU community. Closing Documents will also be maintained in the electronic case file, along with the evidence considered in the Investigation.
  - i. The Closing Document will generally include a description of the allegations reviewed, the policy elements considered, and a brief summary of recommendations or conclusions.
  - ii. Generally, if CCR terminates the review process prior to the issuance of a Closing Document, CCR will notify the parties with a closing letter or email.
  - iii. The Closing Document will generally include a summary of the Investigation, including a list of the documents reviewed and witnesses interviewed and/or contacted, and determinations or recommendations, as allowed under policy, as to whether or not a policy under the purview of CCR was violated.
  - iv. The Complainant(s), the Respondent(s), and their advisors, will receive a copy of the Closing Document, unless a compelling reason exists to withhold the document, in whole or in part, from any of the parties. Student names, and other protected information, will be redacted where appropriate.
  - v. The Closing Document will be provided to parties at least 10 days prior to any disciplinary hearing or other time of determination regarding responsibility.
  - vi. The Closing Document may or may not include findings of fact, depending on the type of allegations.
    - a. For Investigations involving student Respondents or where Title IX Sexual Harassment within the university's Title IX jurisdiction was alleged as defined by EP 15, the Closing Document may include recommended findings and/or credibility

assessments, but will not constitute the final decision of the university and will not include a final determination regarding responsibility.

- b. For all other matters, the Closing Document may include findings, conclusions, and credibility assessments, which may be relied upon by supervisors or decision-makers.
- vii. As appropriate, CCR may share evidence obtained through CCR's process with relevant supervisors, administrators, and/or other appropriate members of the WSU community.

#### **H. Appeal of a Determination of Responsibility, Disciplinary Process, and Appeals (Students)**

1. After CCR issues a final Closing Document in a matter where the Respondent was a WSU student, the Complainant or Respondent may participate in additional process, review, and/or appeal through the WSU Center for Community Standards. Additional information on these processes is available through the Center for Community Standards in the WSU Standards of Conduct for Students.
2. The conduct processes provide for a hearing by a conduct officer or conduct board; appeals are also available. The conduct officer or conduct board makes an independent, objective determination regarding responsibility based on the evidence collected by the CCR investigator, as well as any additional evidence or statements provided by the parties.
3. Matters implicating the Title IX Provisions of EP 15B may have additional hearing requirements, as outlined in the WSU Standards of Conduct for Students.
4. In limited circumstances, as warranted by the facts and at the discretion of the CCR Director, CCR may conduct additional review after the issuance of a CCR Closing Document. CCR will notify the Center for Community Standards, the Complainant, and the Respondent of the additional review.

#### **I. Appeal of a CCR Investigation or Closing Document (Employees and WSU Community Members)**

1. After CCR issues a Closing Document involving a Respondent that is a WSU employee or community member, the Complainant or the Respondent may appeal the Closing Document to the WSU Office of the President within 15 calendar days of the date of issuance.
  - i. CCR Appeals Committee
    - a. The WSU President's standing CCR Appeals Committee (the Committee) will consist of the Committee Chair (the Chair) and two regular committee members, one of whom will be the Committee Vice Chair (Vice Chair). At least two alternate committee members shall be trained in the event that the Chair or one of the committee members is unable to serve on the Committee. The Chair, committee members, and alternate committee members shall be collectively referred to as Members.
    - b. Members will serve for a term of up to three years. Each member will receive appropriate training, as determined by the CCR Director, prior to serving on the committee and at least annually thereafter, related to, but not limited to, the following:
      1. Due Process and Investigation Procedures;
      2. Sex and Gender Based Violence;
      3. 1st Amendment Protected Speech;
      4. Discrimination & Sexual Harassment;
      5. Title IX Regulations;

6. Disability Accommodation and Access concerns;
7. Neutral Assessment and Impartial Judgment;
8. Implicit Bias and Cultural Competency; and
9. Conflict of Interest or Bias.

## 2. Filing and Contents of an Appeal

- i. An appeal after a CCR Closing Document must satisfy the following requirements:
  - a. It must be timely filed;
    1. The Complainant(s) or the Respondent(s) may request an extension of the 15 calendar day deadline, which the CCR Appeals Committee Chair (the Chair) will grant only for a showing of good cause.
  - b. It must be in writing;
  - c. It must articulate a basis for the appeal consistent with the following:
    1. CCR engaged in insufficient investigation, which is defined as a lack of investigation into facts or issues that, more likely than not, could have resulted in a different outcome in the Closing Document;
    2. CCR committed a substantial procedural error that, more likely than not, could have resulted in a different outcome in the Closing Document; and/or
    3. New information exists that, if it had been available during the Investigation, could have resulted in a different outcome in the Closing Document.

## 3. Review of an Appeal

- i. The Chair will conduct an initial review of all timely filed appeals to determine if they meet the minimum requirements of the appeals process as described above.
- ii. If the appeal meets these minimum requirements, the Chair will convene the Committee and send notice to the Complainant, the Respondent, and CCR within seven (7) calendar days of the end of the appeals period. This notice will indicate the following:
  - a. The name, official title, and WSU department of each of the Committee members who will be reviewing the appeal;
  - b. The scope of the review, which is limited to insufficient investigation, substantial procedural error, and/or new information as defined above;
  - c. A copy of the Appeal;
  - d. An opportunity for both parties to submit a written statement in support of or challenging the outcome;
  - e. In a Title IX Sexual Harassment matter, both parties will have access to any new information submitted to the Committee. Where new information is submitted to the Committee, both parties will have the opportunity to review the information and 10 days to submit an additional written statement for review by the Committee.
  - f. Any request for supporting documentation or clarifications;
  - g. The timeline for the review;
- iii. The Committee shall review any supporting documents submitted by the Complainant and

the Respondent as part of the appeals process and shall also have access to the CCR investigative file.

- iv. The Committee has the discretion to invite the Complainant, the Respondent, and/or the CCR lead investigator for an interview.
- v. The Committee shall give substantial deference to the credibility and factual determinations made by the CCR lead investigator.

#### 6. Conflicts of Interest/Bias

- i. Committee members shall promptly disclose to the Chair any potential conflict of interest or bias. If the Chair has the potential conflict of interest or bias, they shall disclose it to the Vice Chair.
- ii. After consultation with the Attorney General's Office, the Chair (or Vice Chair, if applicable) shall determine whether recusal is warranted.
- iii. The Complainant and the Respondent may also request recusal by sending the request in writing to the Chair (or Vice Chair, if applicable) within seven (7) calendar days of receiving the notice described in Section IX(I)(3)(ii), above. The request shall explain why the party believes recusal is warranted.
- iv. If a regular Committee member is recused, the Chair (or Vice Chair, if applicable) shall select one of the alternate Committee members to fill the vacancy.

#### 7. Timeline for Review of an Appeal

- i. The Committee shall issue a decision letter within thirty (30) calendar days of the date of the notice described in Section IX(I)(3)(ii), above.
- ii. The Chair may extend the decision timeline for good cause up to thirty (30) calendar days. If an extension is needed, the Chair will send notice of the extension to the Complainant, the Respondent, and CCR prior to the end of the initial 30-day period.

#### 8. Decision Letter Contents

- i. The decision letter shall include the following:
  - a. A short summary of the procedural history and stated grounds for the appeal;
  - b. A list of the documents reviewed by the Committee and any interviews conducted by the Committee;
  - c. A summary of the Committee's findings and their rationale; and
  - d. A conclusion as to whether the appeal warrants remanding the Closing Document for additional investigation by CCR. A conclusion that remand is warranted shall also include specific recommendations to CCR such as, but not limited to, the following:
    1. Specific witnesses to be interviewed;
    2. Specific questions of fact left to be determined; and/or
    3. Clarifying details sought.

9. Further Action: The Committee's decision is final with respect to the Investigation, unless the Committee determines that additional investigation by CCR is warranted.

### **J. Process for Employees following a final Closing Document**

1. After a Closing Document becomes final (see prior section), the Complainant or the Respondent may participate in additional process or review through the relevant employee manual or handbook. Additional information on these processes is available through the WSU Faculty

Manual, the Administrative Professional Handbook, applicable collective bargaining agreements, or WAC 357-40 (civil service employees).

2. Matters implicating the Title IX Provisions of EP 15 B may have additional hearing requirements.
3. In limited circumstances, as warranted by the facts and at the discretion of the CCR Director, CCR may conduct additional review after the issuance of a Closing Document. CCR will notify HRS, relevant supervisors and administrators, the Complainant, and the Respondent of the additional review.

#### **K. Appeal of a Dismissal of a Formal Complaint of Title IX Sexual Harassment**

1. Where CCR determines a Formal Complaint does not meet EP 15's Title IX Violation definitions or jurisdiction and issues a dismissal of the Title IX Sexual Harassment complaint (which does not prohibit CCR from conducting an Investigation under other EP 15 provisions or policies under CCR's purview), the participants may appeal that dismissal.
  - i. Dismissals involving a student Respondent can be appealed to the University Appeals Board.
  - ii. Dismissals involving an employee or other non-student Respondent can be appealed to the CCR Appeals Board.
2. Appeals can be made on the following grounds:
  - i. Procedural irregularity that affected the outcome of the matter;
  - ii. New evidence that was not reasonably available at the time the determination of dismissal was made, is now available that could affect the outcome of the matter; or
  - iii. The Title IX Coordinator or investigator(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
3. For employee or other non-student Respondents, appeals will be processed as described in Section IX(I). For student Respondents, the University Appeals Board will also process the appeal as described in Section IX(I).

#### **X. Intervention by Title IX Coordinator**

In matters that involve sexual harassment and/or sexual misconduct, the WSU Title IX Coordinator has the authority to intervene at any stage of the CCR review and may make revisions to the process on a case-by-case basis in order to ensure a prompt, thorough, and effective resolution of a Formal Complaint.

#### **XI. Other Available Processes**

Any student or employee aggrieved by a CCR response to a Report or Formal Complaint may be entitled to file a complaint outside of WSU with the U.S. Equal Employment Opportunity Commission, the U.S. Department of Education Office of Civil Rights, the Washington State Human Rights Commission, or any other state or federal agency having jurisdiction. See [External Offices](#).