

ROSEMAN UNIVERSITY’S TITLE IX POLICY ON NONDISCRIMINATION ON THE BASIS OF SEX IN ITS EDUCATION PROGRAMS OR ACTIVITIES

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Roseman University Title IX Policy

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I. Introduction and Notices

Enacted in 1972, Title IX states that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance,” absent certain exceptions. 20 U.S.C. 1681. The Department of Education noted in the preamble to the 2024 Title IX regulations that Title IX’s broad prohibition on sex discrimination encompasses, at a minimum, discrimination against an individual based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity and that the U.S. Supreme Court has long recognized that statutory prohibitions on sex discrimination encompass sexual harassment. The Department also noted in the preamble to the 2024 Title IX regulations that Title IX’s coverage of discrimination based on sexual orientation and gender identity does not depend on whether sex is defined to encompass only certain biological characteristics and that, even assuming that “sex” refers to “biological distinctions between male and female,” discrimination against a person because they are gay or transgender is, in part, discrimination on the basis of sex.

Roseman’s application of Title IX is not limited to students; Title IX applies to all sex discrimination occurring in Roseman’s education program or activity in the United States. The term “Title IX” is defined to include the original statute and subsequent amendments, which are also relevant to Title IX’s purpose. When “Title IX” is referenced in this document, the term refers to Title IX and the regulations.

The Department of Education noted in the preamble to the 2024 Title IX regulations that Title IX does not apply outside of the United States. However, a recipient [i.e., Roseman] has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient’s education program or activity or outside the United States. Conduct occurring in a study abroad program is not governed by these regulations. However, if a student returns to the United States and conduct that occurred in a study abroad program contributes to a hostile environment in the United States, that conduct may be relevant and considered by the recipient so that it can address the sex discrimination occurring within its program in the United States.

The Department of Education noted in the preamble to the 2024 Title IX regulations that these regulations are intended to effectuate the purpose of Title IX, which is to eliminate any “discrimination on the basis of sex in any education program or activity receiving Federal financial assistance”—not just sex-based harassment. The Department also noted that Title IX protects all “person[s]” from sex discrimination, 20 U.S.C. 1681(a)(1), and the relief it affords is not limited to persons who are presently experiencing sex discrimination as long as the discrimination they allegedly experienced was within the scope of the statute’s protections at the time it occurred. This means that former students and employees may seek relief under Title IX if they were previously “excluded from participation in,” “denied the benefits of,” or “subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Nondiscrimination Policy & Notice of Nondiscrimination

Roseman University does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates including in admission and employment required by the 2024 Title IX regulations. Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that occurs under Roseman's education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by Roseman and conduct that is subject to Roseman's disciplinary authority. Roseman has an obligation to address a sex-based hostile environment under its education program or activity, even when some conduct alleged to be contributing to the hostile environment occurred outside the Roseman's education program or activity or outside the United States.

Except as provided elsewhere in the 2024 Title IX regulations, no person must, on the basis of sex, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any Roseman's academic, extracurricular, research, occupational training, or other education program or activity.

In the limited circumstances in which Title IX permits different treatment or separation on the basis of sex, Roseman must not carry out such different treatment or separation in a manner that discriminates on the basis of sex by subjecting a person to more than de minimis harm, except as permitted by current Title IX regulations.

Inquiries about the application of Title IX to Roseman may be referred to Roseman's Title IX Coordinator, the Office for Civil Rights, or both.

Roseman's Title IX Coordinator Contact Information

Roseman's Title IX Coordinator for all the University's campuses (i.e., Henderson, Summerlin, and South Jordan) is:

Michael DeYoung, PhD
Vice President for Student Affairs
Office # 161
11 Sunset Way
Henderson, NV 89014
mdeyoung@roseman.edu
(702) 968-2006

Roseman's nondiscrimination policy and grievance procedures can be located on Roseman's webpage at www.Roseman.edu or an individual can contact Roseman's Title IX Coordinator using the contact information above to obtain this information. The 2024 Title IX amendments provide that Roseman may instead include in those publications the information covered in the following statement:

Roseman University prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The notice of nondiscrimination is located at www.Roseman.edu.

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please call or email Roseman’s Title IX Coordinator at the phone number and email address stated in the Title IX Coordinator's contact information above or go to www.Roseman.edu.

Roseman must not adopt or implement any policy, practice, or procedure concerning a student’s current, potential, or past parental, family, or marital status that treats students differently on the basis of sex.

Admissions

Status Generally

No person must, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by Roseman

Parental, Family, or Marital Status; Pregnancy or Related Conditions

In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, Roseman:

- (1) Must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions; and
- (2) Must not:
 - (A) Adopt or implement any policy, practice, or procedure concerning the current, potential, or past parental, family, or marital status of a student or applicant that treats persons differently on the basis of sex;
 - (B) Discriminate against any person on the basis of current, potential, or past pregnancy or related conditions, or adopt or implement any policy, practice, or procedure that so discriminates; and
 - (C) Make a pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is “Miss or Mrs.” Roseman may ask an applicant to self-identify their sex, but only if this question is asked of all applicants and if the response is not used as a basis for discrimination prohibited by current Title IX regulations.

Pre-Employment Inquiries

(1) Marital status

Roseman must not make a pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is “Miss or Mrs.”

(2) Sex

Roseman may ask an applicant for employment to self-identify their sex, but only if this question is asked of all applicants and if the response is not used as a basis for discrimination prohibited by the 2024 Title IX regulations.

Roseman must not adopt or implement any policy, practice, or procedure, or take any employment action, on the basis of sex:

- (1) Concerning the current, potential, or past parental, family, or marital status of an employee or applicant for employment, which treats persons differently; or
- (2) That is based upon whether an employee or applicant for employment the head of household or principal wage earner in such employee’s or applicant’s family unit is.

Grievance Procedures

In this document, Roseman University has adopted, published, and implemented grievance procedures consistent with the requirements of current Title IX regulations that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in the recipient's education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by the 2024 Title IX regulations.

The Department of Education in the preamble to the 2024 Title IX regulations explained that the Department did not intend the 2024 regulations to be enforced retroactively. These regulations apply only to sex discrimination that allegedly occurred on or after August 1, 2024. With respect to sex discrimination that allegedly occurred prior to August 1, 2024, regardless of when the alleged sex discrimination was reported, the Department will evaluate Roseman's compliance against the Title IX statute and the Title IX regulations in place at the time that the alleged sex discrimination occurred. If an individual who left Roseman makes a complaint requesting compliance solely with regulatory requirements that were not in effect at the time of the alleged conduct, Roseman will dismiss the complaint.

Title IX Coordinator's Right to Delegate Specific Duties

As appropriate, Roseman University has the right to delegate, or permit its Title IX Coordinator to delegate specific duties to one or more designees.

The Department of Education in the preamble to the 2024 Title IX regulations explained that permission to delegate responsibilities to designees enables a recipient [i.e., Roseman] to assign duties to individuals who are best positioned to perform them, avoid actual or perceived conflicts of interest, and align with Roseman's administrative structure. The Department's Title IX regulations have never required Roseman to designate a separate employee to oversee Roseman's Title IX compliance with respect to each school or building, and the Department declines to do so through this rulemaking.

Title IX Coordinator's Right to Consult with Roseman University's Student Services Disability Office

If a complainant or respondent is a Roseman University student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that Roseman has designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794.

Effect of State or Local Law or Other Requirements

The obligation to comply with Title IX and this part is not obviated or alleviated by any State or local law or other requirement that conflicts with Title IX or this part.

The Department of Education in the preamble to the 2024 Title IX regulations noted that the regulations do not alter existing regulations under the Department's other civil rights laws, including Title VI, Section 504, and the ADA.

Roseman University's Title IX grievance procedures for complaints of sex-based harassment involving employees must function alongside the procedures it uses to implement Title VII and, to the

extent not inconsistent, other laws and collective bargaining agreements that govern the employment relationship. Title IX addresses sex discrimination in any education program or activity receiving Federal financial assistance, whereas Title VII addresses sex discrimination (and discrimination on other bases) in the workplace. The Department of Education in the preamble to the 2024 Title IX regulations recognized that employers must fulfill their obligations under both Title VII and Title IX, and there is no inherent conflict between Title VII and Title IX.

Effect of Section 444 of General Education Provisions Act (GEPA)/Family Educational Rights and Privacy Act (FERPA)

The obligation to comply with Title IX and this part is not obviated or alleviated by FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

The Department of Education in the preamble to the 2024 Title IX regulations noted that if there is a direct conflict between FERPA's requirements and Title IX's requirements, such that enforcing FERPA would interfere with Title IX's primary purpose to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. To the extent that FERPA would require the withholding or redaction of personally identifiable information in education records, for purposes of Title IX the Department takes the position that principles of due process and fundamental fairness require the disclosure of unredacted evidence and information to the parties that is relevant to the allegation and not otherwise impermissible.

The Department recognized that under FERPA, a parent (or eligible student) has a right to inspect and review any witness statement that is directly related to the student, even if that statement contains information that is also directly related to another student, if the information cannot be segregated and redacted without destroying its meaning.

II. Definitions

Admission

Means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

Advisor

Any individual who is acting as an advisor to the party for purposes of the grievance procedures.

Bias

The Department of Education did not define this term in the 2024 Title IX regulations. Roseman University defines bias as consisting of attitudes, behaviors and actions that are prejudiced in favor of or against one person or group compared to another. *Implicit bias* is a form of bias that occurs automatically and unintentionally that nevertheless affects judgments, decisions, and behaviors.

Business Day

Means that a complete business day starts at 8:00 am and ends at 5:00 pm Monday through Friday. For example, communication between 5:01 pm Friday and 7:59 am Monday must be designated as occurring on Friday (the previous business day) and the first business day that would be counted towards meeting a deadline would be Monday; communication initiated after 8:00 am on Monday but before 7:59 am on Tuesday, must be designated as occurring on Monday (the current business day) and the first business day that must be counted towards a meeting a deadline would be Tuesday.

Complainant

Means:

- (1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under the 2024 Title IX regulations; or
- (2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under the 2024 Title IX regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

In the preamble to the 2024 Title IX regulations the Department of Education noted that whether someone is participating or attempting to participate in a recipient's [i.e., Roseman] education program or activity requires a fact-specific analysis to be made on a case-by-case basis. Someone who is not a student (or person authorized to act on behalf of a student) or an employee could still be a complainant if they were participating or attempting to participate in Roseman's education program or activity as, for example, a prospective student, or a guest speaker. Additionally, persons who have applied for admission or have withdrawn from Roseman's program or activity but indicate a desire to re-enroll if Roseman appropriately responds to sex-based harassment allegations may be properly understood as "attempting to participate" in Roseman's education program or activity.

The preamble to the 2024 Title IX regulations noted that the Department of Education concluded that requiring participation or attempted participation at the time of the alleged discrimination is better aligned with Title IX's text and its goal of ensuring that a recipient [i.e.,

Roseman] operates its education program or activity free from sex discrimination because it addresses conduct that would have interfered with the complainant's ability to participate in Roseman's education program or activity. Complainants are not limited to a university's enrolled students; they can include members of the public who "are either taking part or trying to take part of a funding recipient institution's educational program or activity" when they attend events such as campus tours, sporting events, and lectures, as long as the alleged discrimination relates to the individual's participation or attempted participation in such program or activity.

Complaint

Means an oral or written request to Roseman that objectively can be understood as a request for Roseman to investigate and make a determination about alleged discrimination under the 2024 Title IX regulations.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that a complaint is essentially a request to initiate the recipient's [i.e., Roseman] grievance procedures and prompts an investigation and a determination whether sex discrimination occurred.

Whether oral or written, if the request can be objectively understood as a request for Roseman to investigate and make a determination about alleged sex discrimination under Title IX, then Roseman must interpret it as a request to initiate the grievance procedures.

Conflict of Interest

The Department of Education did not define this term in the 2024 Title IX regulations. Roseman defines conflict of interest as any situation that could cause a reasonable person to question the impartiality or objectivity of Roseman's Title IX personnel.

Consent

Roseman will consider the following issues to determine if a complainant gave consent:

- A person who is unconscious can't consent to sexual activity.
- An individual who is incapacitated is unable to consent to sexual activity. Roseman will assess the following as indicators of being incapacitated:
 - Preceding and/or during the sexual activity, did the complainant know the respondent's name?
 - Did the complainant know if more than one person was engaging the complainant in sexual activity?
 - Preceding and/or during the sexual activity, did the complainant know the date and time?
 - Preceding and/or during the sexual activity, did the complainant know where the respondent was engaging the complainant in sexual activity?
 - Was the complainant aware of how the respondent was engaging the complainant in sexual activity?
 - Did the complainant show any signs of slurred speech, an inability to stand or walk without assistance, vomiting, and/or being in and out of consciousness preceding and/or during the sexual activity with the respondent?
 - Was there any other indicator that a reasonable person would conclude was a sign that the complainant was incapacitated?

- Every individual has the right to say “no” at any time and to have that choice respected. A voluntary affirmative verbal response is a way to ensure that an individual has given consent to sexual activity. An individual does not have to physically resist for an activity to be considered sexual assault. Any sign of resistance eliminates consent.
- Silence is not accepted to establish consent to any kind of sexual activity.
- A person who believes they were coerced, physically or mentally, is unable to give consent.
- Unless granted an exemption by Roseman’s Office of Human Resources, any individual that has 'Academic or Supervisory Authority' over a Roseman student at any time during a current academic year is prohibited from initiating or continuing a sexual or romantic relationship with this student.
- Prior sexual contact does not mean consent, even when individuals have been in a relationship. An individual who initially consents to sexual conduct has the right to withdraw this consent during the course of sexual activity.
- Roseman will apply the conditions defining consent consistently, including as between men and women and as between the complainant and respondent, in the University’s Title IX grievance process.
- The burden of proof and the burden of collecting evidence sufficient to reach determination regarding consent, is the responsibility of Roseman’s Title IX personnel. The Department of Education’s 2024 Title IX regulations do not require a respondent to prove consent and do not require a complainant to prove the absence of consent.

Disciplinary Sanction:

A disciplinary sanction is a consequence imposed on a respondent only after a determination that the respondent has violated Roseman’s prohibition on sex discrimination under Title IX.

The definition of “disciplinary sanctions” focuses on ensuring that respondents are not disciplined for engaging in sex discrimination unless a fair process has determined responsibility, and respects Roseman’s discretion to make disciplinary decisions under its own policies and codes of conduct.

The Department of Education noted in the preamble to the 2024 Title IX regulations that the definition of “disciplinary sanctions” does not set forth specific requirements for disciplinary sanctions. The 2024 Title IX regulations do not specify what consequences Roseman can or must impose on a respondent or what factors to consider when determining what disciplinary sanction to impose.

The Department of Education noted in the preamble to the 2024 Title IX regulations that these regulations require the Title IX Coordinator to notify the complainant of any disciplinary sanctions imposed on a respondent because such disciplinary sanctions are imposed following a determination that the respondent violated the recipient’s [i.e., Roseman] prohibition on sex discrimination as to the complainant, and notification to the complainant is necessary to remedy its effects. In some cases, notification to the complainant may also be necessary to prevent recurrence of or end sex discrimination. For example, if a student respondent is found responsible for engaging in sex-based harassment and is removed from an extracurricular activity in which the complainant also participates, it would serve the purpose of ending the harassment to both remove the student from the activity and notify the complainant of this

disciplinary action so that the complainant can continue to participate with the knowledge that the respondent will not.

A possible range of disciplinary sanctions for a respondent includes issuing a formal written 'Warning' to the respondent (a statement that clearly indicates the particular aspects of the behavior at issue and expectations for future behavior) to university expulsion (permanent severance of the student from Roseman with no opportunity to reapply for admission) for student-respondents to permanent termination of employment for employee-respondents. This published range is purely for purposes of notice as to the possibility of a range of disciplinary sanctions and does not reflect the probability that any particular outcome will occur.

Discrimination on the Basis of Sex

Includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Emergency Removal

Means the removal of a respondent from a Roseman education program or activity on an emergency basis for reasons related to a Title IX issue(s).

An emergency removal for the purposes of a Roseman Title IX-related reason(s) requires Roseman to undertake an individualized safety and risk analysis, determine 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 to provide the respondent with notice and an opportunity to challenge the decision immediately following the removal.

An emergency removal may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

Employee

Includes persons in the service of Roseman under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. In the event of a conflict between the University's definition and the definition required by Nevada or Utah State Law, Roseman must defer to the definition required by state law.

Employee, Confidential Employee (Confidential Employee)

Means:

- (1) An employee of Roseman whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this Title IX policy, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; These types of confidential Roseman employees may include, but are not limited to, Roseman Medical Group clinic employees, licensed medical or clinical professionals.
- (2) An employee of Roseman whom Roseman has designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not

associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services;

These types of confidential employees may include, but are not limited to, guidance counselors, organizational ombuds, or staff within an on-campus sexual assault response center.

or

- (3) An employee of Roseman who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

Employee, Category 1 (Category I Employee)

This employee category is those who either

- (1) have authority to institute corrective measures on behalf of Roseman

or

- (2) have responsibility for
(A) administrative leadership,
(B) teaching,
(C) or advising,

in Roseman's education program or activity.

Employee, Category 2 (Category II Employee)

This category is all other employees who are not 'Confidential Employees', and not covered under Category 1.

Good Cause

Roseman's Title IX Coordinator, Title IX Investigator, Title IX Decisionmaker, and Title IX Appeals Decisionmaker define 'Good Cause' using a reasonable person standard which includes considerations such as the absence of a party, the absence of a party's advisor, the absence of a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. For example, if a concurrent law enforcement investigation uncovers evidence that the police plan to release on a specific time frame and that evidence would likely be material to a Roseman's Title IX Decisionmaker's determination regarding responsibility, then Roseman may have good cause for a temporary delay or limited extension of its grievance process in order to allow that evidence to be included as part of the Title IX investigation.

Investigative Report

Means the formal Title IX Investigative Report that fairly summarizes relevant evidence that is completed by the Title IX Investigator. Rape shield protections preclude the inclusion of irrelevant evidence in the investigative report.

While a Title IX Investigator has the discretion to offer recommendations and conclusions in the investigative report, the Title IX Decisionmaker is under an independent obligation to objectively evaluate relevant evidence, and thus will not simply defer to recommendations and conclusions made by the Title IX Investigator.

Notice of Allegations for Complaints of Sex Discrimination

Roseman's Notice of Allegations for Complaints of Sex Discrimination consist of:

- (1) Roseman's Title IX grievance procedures and any informal resolution process*;
**Title IX does not require Roseman to offer an informal resolution process. However, Roseman is free to provide such a process in some circumstances, as long as Roseman complies with Title IX regulatory requirements.*
- (2) Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s) to the extent that information is available to Roseman;
- (3) Retaliation is prohibited; and
- (4) The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.
Roseman provides access to a Title IX Investigative Report. However, the parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party.

Notice of Allegations for Complaints of Sex-based Harassment

Roseman's Notice of Allegations for Complaints of Sex-based Harassment consist of:

- (1) Roseman's Title IX grievance procedures;
- (2) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to Roseman; and
- (3) A statement that retaliation is prohibited; and
- (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence and if Roseman provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party; and
- (5) A statement that the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the Title IX grievance procedures and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Title IX Decisionmaker; and
- (6) They may have an advisor of their choice to serve in this role as defined by the 2024 Title IX regulations, and that the advisor may be, but is not required to be, an attorney; and
- (7) They are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence as set out in current Title IX regulations; and if Roseman provides access to a Title IX Investigative Report, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party; and
- (8) If the student's College's/Program's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedure.

Parental Status

Means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (1) A biological parent;
- (2) An adoptive parent;
- (3) A foster parent;
- (4) A stepparent;
- (5) A legal custodian or guardian;
- (6) In loco parentis with respect to such a person; or
- (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Party

Means a complainant or respondent.

Peer Retaliation

Means retaliation by a student against another student.

Pregnancy or Related Conditions

Means:

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Preponderance of the Evidence/More Likely Than Not Standard

Roseman's Title IX policy uses the Preponderance of the Evidence (also known as More Likely Than Not) standard for both students and employees accused of sex discrimination and/or sex-based harassment. This standard means that a proposition is more probably true than false, meaning a probability of truth greater than 50 percent. If the Title IX Decisionmaker determines that a Title IX case is in equipoise. i.e., "too close to call", the Title IX Decisionmaker will not determine that the respondent is responsible for the allegation(s) of sex discrimination. Similarly, the Title IX Appeal Decisionmaker will use the Preponderance of the Evidence/More Likely Than Not Standard when determining an appeal.

Presumption of Non-Responsibility

Roseman's Title IX policy requires the presumption that a respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Program or Activity and Program

Means the operations of Roseman University

The Department of Education noted in the preamble to the 2024 Title IX regulations that a recipient [i.e., Roseman] should not focus its analysis on whether alleged conduct happened "on" or "off" campus but rather on whether Roseman has disciplinary authority over the respondent's conduct in the context in which it occurred. Conduct occurring under Roseman's education program or activity would include, but is not limited to, conduct that occurs in off-

campus settings that are operated or overseen by Roseman, including, for example, field trips, online classes, and athletic programs; conduct subject to Roseman’s disciplinary authority that occurs off campus; conduct that takes place via school-sponsored electronic devices, computer and internet networks and digital platforms operated by, or used in the operations of, Roseman, including AI technologies; and conduct that occurs during training programs sponsored by Roseman at another location.

Rape Shield Protections

Means that questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are not relevant and are therefore prohibited, unless:

- 1) 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
- 2) if the questions and evidence are specifically about incidents of the complainant’s prior sexual behavior with the respondent and is offered to prove consent.

The Department of Education clarified in the preamble to the 2020 Title IX regulations that the rape shield language in this provision considers all questions and evidence of a complainant’s sexual *predisposition* irrelevant, with no exceptions; questions and evidence about a complainant’s prior *sexual behavior* are irrelevant unless they meet one of the two exceptions.

The Department of Education noted in the preamble to the 2020 Title IX regulations that rape shield language deems irrelevant *all* questions or evidence of a complainant’s sexual behavior *unless* offered to prove consent (and it concerns specific instances of sexual behavior with the respondent); thus, if “consent” is not at issue – for example, where the allegations concern solely unwelcome conduct that does not involve sexual assault, dating violence, domestic violence or stalking, then that exception does not even apply, and the rape shield protections would then bar *all* questions and evidence about a complainant’s sexual behavior, with no need to engage in a balancing test of whether the value of the evidence is outweighed by harm or prejudice.

The Department of Education noted in the preamble to the 2020 Title IX regulations that where a respondent might wish to prove the complainant had a motive to fabricate or conceal a sexual interaction, a university is not required to allow for admission or consideration of the complainant’s sexual behavior. Respondents in this scenario could probe a complainant’s motive by, for example, inquiring whether a complainant had a dating or romantic relationship with a person other than the respondent, without delving into a complainant’s sexual behavior; sexual behavior evidence would remain irrelevant in such circumstances.

The Department of Education noted in the preamble to the 2020 Title IX regulations that questions and evidence about a *respondent’s* sexual predisposition or prior sexual behavior are not subject to any special consideration but rather must be judged like any other question or evidence as relevant or irrelevant to the allegations at issue.

Relevant

Means related to the allegations of sex discrimination under investigation as part of the grievance procedures under the 2024 Title IX regulations. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that the definition of “relevant” is sufficiently broad in that it allows for the inclusion of all evidence that is related to an allegation of sex discrimination and will aid the Title IX Decisionmaker in determining whether alleged sex discrimination occurred. The Department also noted that these regulations adopt a definition of “relevant” that reflects its plain and ordinary meaning and is intended to provide clarity for recipients [i.e., Roseman] that do not have extensive familiarity with legal concepts.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that this definition clarifies that *questions are relevant* when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Title IX Decisionmaker in determining whether the alleged sex discrimination occurred. The evaluation of *whether evidence is relevant* under the definition of “relevant” includes consideration of whether the evidence is both related to the allegations of sex discrimination under investigation and will aid a Title IX Decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies

Means measures provided, as appropriate, to a complainant or any other person Roseman identifies as having had their equal access to Roseman’s education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person’s access to Roseman’s education program or activity after Roseman determines that sex discrimination occurred.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that because remedies generally are designed to restore or preserve access to the recipient’s [i.e., Roseman] education program or activity for a particular complainant or other person or group of persons, they will be individualized and highly fact-specific.

Examples of possible measures Roseman may need to offer a student to remedy the effects of sex-based harassment, to remedy the additional harm caused by Roseman’s action or inaction, or to restore or preserve a student’s continued access to Rosman’s education program or activity after a determination that sex-based harassment occurred could include: ensuring that a complainant can move safely between classes and while at school or on campus such as by providing a campus escort or allowing a student to park in the teachers’ parking lot; making changes to class schedules and extracurricular activities to ensure the complainant and respondent are separated; making adjustments to student housing; providing services, including medical support and counseling; providing academic resources and support; reviewing any disciplinary actions taken against the complainant to determine whether there is a causal connection between the sex-based harassment and the misconduct; providing reimbursement for professional counseling services; making tuition adjustments; and any other remedies it deems appropriate.

The Department of Education in the preamble to the 2024 Title IX regulations recognized that a student's graduation may limit the remedies that may be available or appropriate. For example, a respondent's graduation may limit Roseman's discretion to implement certain remedies that affect the respondent, but Roseman would still have authority, for example, to restrict a respondent's access to campus. A complainant's graduation may also limit the remedies that may be available or appropriate, but there may be remedies that would serve to restore or preserve a complainant's access to the Roseman's education program or activity after graduation. For example, Roseman may decide to prohibit an employee respondent from attending an alumni event that the complainant seeks to attend.

To fully eliminate the effects of the discrimination, Roseman may have to offer remedies to the students who were subjected to a hostile environment but did not report discrimination. Similarly, when Roseman provides a remedy to a complainant who experienced sex-based harassment, Roseman might also need to provide training or other educational programming to address challenges for other participants in that environment who, while not harassed, may have witnessed the sex-based harassment. The Department of Education in the preamble to the 2024 Title IX regulations noted that these regulations do not require Roseman to notify the respondent of the remedies provided to the complainant or other persons.

Respondent

Means a person who is alleged to have violated Roseman's prohibition on sex discrimination.

Retaliation

Means intimidation, threats, coercion, or discrimination against any person by Roseman, a student, or an employee or other person authorized by Roseman to provide aid, benefit, or service under Roseman's education program or activity, for the purpose of interfering with any right or privilege secured by current Title IX regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing, including in an informal resolution process under the 2024 Title IX regulations. Nothing in this definition precludes Roseman from requiring an employee or other person authorized by Roseman to provide aid, benefit, or service under Roseman's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing.

Sex-Based Harassment

Is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in the 2024 Title IX regulations.

In the preamble to the 2024 Title IX regulations, the Department of Education clarified that sex discrimination refers to any discrimination based on sex, including, but not limited to, sex-based harassment, and that sex-based harassment is a form of sex discrimination.

Harassing a student—including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on the student's nonconformity with stereotypical notions of masculinity and femininity or gender identity—can constitute discrimination on the basis of sex under Title IX in certain circumstances. Whether verbal conduct constitutes sex-based harassment is necessarily fact-specific. While the 2024 Title IX regulations do not purport to identify all of

the circumstances that could constitute sex-based harassment under Title IX, a stray remark, such as a misuse of language, would not constitute harassment under this standard.

(1) *Quid pro quo harassment*

An employee, agent, or other person authorized by the Roseman to provide an aid, benefit, or service under Roseman's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

In the preamble to the 2024 Title IX regulations, the Department of Education noted that Title IX covers all aspects of the recipient's [i.e., Roseman] education program or activity, including extracurricular activities. Moreover, quid pro quo sex-based harassment covers harassment by members of Roseman's leadership, including board members, paid or unpaid, to the extent those individuals are authorized by Roseman to provide an aid, benefit, or service under Roseman's education program or activity.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that acquiescence to the conduct or the failure to complain, resist, or object to the conduct does not mean that the conduct was welcome, and the fact that a person may have accepted the conduct does not mean they welcome it.

The Department also clarified that quid pro quo sex-based harassment can include situations in which an employee, agent, or other person authorized by Roseman purports to provide and condition an aid, benefit, or service under Roseman's education program or activity on a person's participation in unwelcome sexual conduct, even if that person is unable to provide that aid, benefit, or service. In addition, the threat of a detriment falls within the definition of quid pro quo sex-based harassment, whether or not the threat is actually carried out because a threat to, for example, award a poor grade unless a person participates in unwelcome sexual conduct, is a condition placed on the provision of the student's education, which is a service of Roseman.

(2) *Hostile environment harassment*

Means unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Roseman's education program or activity (i.e., creates a hostile environment).

Therefore, the conduct in question must be:

- A) unwelcome,
- B) sex-based,
- C) subjectively and objectively offensive, as well as
- D) so severe or pervasive
- E) that it results in a limitation or denial of a person's ability to participate in or benefit from Roseman's education program or activity.

The Department of Education noted in the preamble to the 2024 Title IX regulations that sex-based conduct that occurs on multiple occasions and is so persistent that, for example, it limits another student's ability to complete assigned coursework at the student's typical level of

performance would potentially constitute the type of pervasive sex-based conduct the regulations are intended to reach. Additionally, harassment can be considered to be pervasive if it is widespread, openly practiced, or well-known to students and staff (such as sex-based harassment occurring in the hallways or graffiti in public areas).

This definition requires Roseman's Title IX Coordinator to assess a complaint or notification of allegedly offensive sex-based speech considering the totality of the known circumstances, including whether the Title IX Coordinator has received other related complaints or notifications alleging conduct that reasonably may constitute sex discrimination.

This definition recognizes that isolated comments would generally not meet the definition of hostile environment sex-based harassment. The Department of Education noted in the preamble to the 2024 Title IX regulations that one stray remark does not satisfy the level of pervasiveness to which the regulations refer. Additionally, the Department also noted that a single request for a date or a single gift of flowers from one student to another, is an example of a type of conduct that may be sex-based but would not be pervasive.

In the July 2022 NPRM, the Department of Education provided the example of a student who reports that his peers repeatedly denigrated him as "girly" over a period of weeks. In this example, if one peer made a one-off remark calling the student "girly," that alone may not be severe or pervasive enough to create a hostile environment, but if multiple peers repeatedly call the student "girly," then that same treatment may create a hostile environment for that student. In the preamble to the 2024 Title IX regulations, the Department noted that if one student at a postsecondary institution made a derogatory comment to a pregnant student based on the student's pregnancy, that alone may not be sufficient to create a hostile environment, but if multiple people make similar comments to the same student based on pregnancy, that may create a hostile environment for the student.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that courts have sometimes treated harassment as a form of conduct, thus leaving it outside the scope of the First Amendment even when the harassment was accomplished through speech. Examples of speech not protected by the First Amendment provided by the Department included

- 1) repeated and insulting telephone calls,
- 2) speech uttered with the particular purpose to inflict mental discomfort on another, and
- 3) pictures and verbal harassment are not protected speech because they act as discriminatory conduct.

The Department also noted that the U.S. Supreme Court has in a number of cases recognized that when an audience has no reasonable way to escape hearing an unwelcome message, greater restrictions on a speaker's freedom of expression may be tolerated and that many students subject to hostile environment harassment lack reasonable ways to avoid the harasser because of the difficulties inherent in transferring to a different school or taking similar measures.

The Department maintained in the preamble to the 2024 Title IX regulations that the objective standard is assessed from the perspective of a reasonable person in the complainant's position.

The Department also noted that subjective offensiveness must be supported by evidence, and subjective offensiveness alone would not support a finding or discipline. The definition of hostile environment sex-based harassment requires an evaluation, based on the totality of circumstances, of several key elements.

In the preamble to the 2024 Title IX regulations, the Department of Education reaffirmed that the definition of hostile environment sex-based harassment does not require a complainant to demonstrate any particular harm, such as reduced grades or missed classes. A complainant must demonstrate some impact on their ability to participate in or benefit from the education program or activity, but the definition does not specify any particular limits or denials. Whether conduct limits or denies a person's ability to participate in or benefit from the recipient's [i.e., Roseman's] education program or activity is a fact-based inquiry that requires consideration of all relevant and not otherwise impermissible evidence.

In the preamble to the 2024 Title IX regulations the Department of Education affirmed the statement in the preamble to the 2020 amendments that "equal access" "neither requires nor permits school officials to impose notions of what a 'perfect victim' does or says, nor may a recipient [i.e., Roseman] refuse to respond to sexual harassment because a complainant is 'high-functioning' or not showing particular symptoms following a sexual harassment incident. School officials turning away a complainant by deciding the complainant was 'not traumatized enough' would be impermissible."

Department of Education Notes about Sex-based Harassment that Takes Place Online

In the preamble to the 2024 Title IX regulations, the Department explained that when a recipient [i.e., Roseman] has information about sex-based harassment among its students that took place online and created a hostile environment in Roseman's education program or activity, Roseman has an obligation to address that hostile environment. As explained in the July 2022 NPRM, the Department does not expect Roseman to follow/affirmatively monitor the online activity of its students outside of Roseman's education program or activity. The Department notes that Roseman's obligation is to address all forms of sex discrimination, including sex-based harassment that occurs within Roseman's education program or activity, whether the conduct takes place online, in person, or both.

Online harassment can include, but is not limited to, unwelcome conduct on social media platforms such as sex-based derogatory name-calling, the nonconsensual distribution of intimate images (including authentic images and images that have been altered or generated by artificial intelligence (AI) technologies), cyberstalking, sending sex-based pictures or cartoons, and other sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity. Roseman must evaluate online conduct with the same factors that are used to determine whether in-person conduct creates a hostile environment.

If an employee has information about sex-based harassment among its students that took place online, such as the nonconsensual sharing of intimate images, and that created a

hostile environment in Roseman’s education program or activity, Roseman has an obligation to address the conduct.

Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (1) The degree to which the conduct affected the complainant’s ability to access Roseman’s education program or activity;
- (2) The type, frequency, and duration of the conduct;
- (3) The parties’ ages, roles within Roseman’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- (4) The location of the conduct and the context in which the conduct occurred; and
- (5) Other sex-based harassment in Roseman’s education program or activity;

In the preamble to the 2024 Title IX regulations, the Department of Education noted that it defined hostile environment sex-based harassment with the First Amendment in mind by requiring that it be unwelcome, sex-based, and subjectively and objectively offensive, as well as so severe or pervasive that the conduct results in a limitation or denial of a person’s ability to participate in or benefit from the recipient’s [i.e., Roseman’s] education program or activity. The definition is aimed at discriminatory conduct—conduct that is unwelcome as well as sex-based, and that has an impact far greater than being bothersome or merely offensive.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that conduct that is either pervasive or severe may create a hostile environment that limits or denies a person’s educational access. Roseman must still make an individualized determination as to whether certain conduct constitutes prohibited sex-based harassment and may conclude, for example, that certain conduct between employees is not prohibited while the same conduct between students or between a student and an employee is prohibited. Whether unwelcome sex-based conduct has created a hostile environment is determined based on the totality of the circumstances. Based on the specific circumstances in which a particular incident arises, a single serious incident—even if not pervasive—may be so severe as to create a hostile environment. And based on the specific circumstances in which it occurs, pervasive conduct—even if no single occurrence of the conduct, taken in isolation, is severe—may likewise create a hostile environment.

The Department acknowledged in the preamble to the 2024 Title IX regulations that reference to the parties’ ages and roles is less applicable at the postsecondary level but noted that some students in postsecondary education are under eighteen (18) years old, and the relative power dynamics and ages of the parties in the postsecondary context could still be a factor, particularly if the conduct involves a student and employee.

The Department of Education noted in the preamble to the 2024 Title IX regulations that the determination whether a hostile environment exists is inherently fact-based, and the Department considers the academic setting of a person’s conduct to be highly relevant. Conduct that may very well amount to harassment in other settings may not amount to

harassment if engaged in appropriately in the academic setting, especially in the context of postsecondary academic discourse.

Additionally, if Roseman responds when, for instance, one student steals from another at an off-campus location, or when a student engages in a nonsexual assault of another student at an off-campus location, it must likewise respond when a student engages in sexual assault or sex-based harassment of another student off campus.

With regards to student groups/student organizations, the Department of Education noted that to the extent that Title IX prohibits student groups from discriminating on the basis of sex, including sexual orientation and gender identity, those groups may, consistent with Title IX and other applicable laws, impose membership criteria not related to sex that promote the student group's mission (for example, requiring that members have a legitimate good faith interest in the group's mission).

or

(3) Specific offenses

- (A) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
- (B) Dating violence meaning violence committed by a person:
 - (i) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (ii) Where the existence of such a relationship must be determined based on a consideration of the following factors:
 - (a) The length of the relationship;
 - (b) The type of relationship; and
 - (c) The frequency of interaction between the persons involved in the relationship;
- (C) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - (i) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - (ii) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (iii) Shares a child in common with the victim; or
 - (iv) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
- (D) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - (i) Fear for the person's safety or the safety of others; or
 - (ii) Suffer substantial emotional distress.

The Department of Education noted in the preamble to the 2024 Title IX regulations that stalking can occur in person or using technology, and the duration, frequency, and intensity of the conduct should be considered. Stalking tactics can include, but are not limited to watching, following, using tracking devices, monitoring online activity, unwanted contact, property invasion or damage, hacking accounts, threats, violence, sabotage, and attacks. The Department noted that in the context of stalking, a recipient

[i.e., Roseman], would consider whether a reasonable person in the complainant’s position would fear for their safety or suffer emotional distress.

The Department confirmed in the preamble to the 2024 Title IX regulations that under the specific offenses of sexual assault, dating violence, domestic violence, and stalking need not satisfy the elements of severity or pervasiveness or subjective and objective offensiveness in order to constitute sex-based harassment.

Note to the definition of sex-based harassment: per the 2024 Title IX regulations, the Assistant Secretary of the Department of Education did not require Roseman to adopt a particular definition of consent, where that term is applicable with respect to sex-based harassment. The Department confirmed in the preamble to the 2024 Title IX regulations that regardless of whether and how a recipient [i.e., Roseman] defines “consent,” the burden of proof, and the burden of gathering evidence sufficient to reach a determination regarding whether sex discrimination occurred, is on Roseman. The regulations do not permit Roseman to shift that burden to a respondent to prove consent, nor do they permit Roseman to shift that burden to a complainant to prove absence of consent.

Student

Means a person who has gained admission.

“Admission” covers a wide range of programs and is not limited to a formal offer of admission but rather is defined to include “selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by Roseman.

Student with a Disability

Means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

Supportive Measures

Means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party’s access to Roseman’s education program or activity, including measures that are designed to protect the safety of the parties or Roseman’s educational environment; or
- (2) Provide support during Roseman’s grievance procedures under current Title IX regulations or during the informal resolution process.

Supportive measures may vary depending on what Roseman deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of

whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

The Department noted in the preamble to the 2024 Title IX regulations that the fact that a measure is burdensome does not determine whether it is a supportive measure or a punitive or disciplinary measure. For example, a stay-away order may be burdensome because it requires a respondent to change routes when navigating campus or avoid a certain hallway in order to preserve a complainant's access to the recipient's [i.e., Roseman] education program or activity, but it would be a permissible supportive measure to the extent that the order was imposed to preserve access and was not imposed for any punitive or disciplinary reason. The Department recognizes that some actions used as supportive measures may also be available and employed as disciplinary sanctions after a determination of responsibility.

Title IX Advisor

Means an individual selected by a respondent, complainant, Title IX Coordinator or Title IX Decisionmaker to advise and assist a respondent or complainant throughout Roseman's Title IX process.

An advisor may be an attorney.

Roseman does not require an advisor to satisfy any minimum requirements, complete any training, demonstrate competence in Title IX policies and procedures, and/or to be free of conflicts of interest.

Title IX Appeal Decisionmaker

Means an individual designated by Roseman to determine an appeal(s) submitted by either the complainant and/or respondent after a Title IX Decisionmaker has issued a written determination.

The Title IX Appeals Decisionmaker is not allowed to be the Title IX Investigator for the case the Appeals Decisionmaker has been assigned, the Title IX Decisionmaker for the case that is being appealed, or the Title IX Coordinator. The Title IX Appeals Decisionmaker is not required to be a Roseman employee.

Title IX Coordinator

The individual designated by Roseman to be responsible for complying with Title IX requirements. The Title IX Coordinator must be a Roseman employee.

Title IX Decisionmaker

An individual designated by Roseman to determine if a respondent is responsible for violating Roseman's Title IX policy. The Title IX Decisionmaker is not allowed to be the Title IX Investigator for the case the Title IX Decisionmaker has been assigned to or the Title IX Coordinator. The Title IX Decisionmaker is not required to be a Roseman employee. Roseman can have their own employees serve as a Title IX Decisionmaker or outsource this role to contractors.

Title IX Investigator

An individual designated by Roseman to investigate allegation(s) of sex discrimination, including sex-based harassment. The Title IX Investigator can also be the Title IX Coordinator. The Title IX Investigator is not required to be a Roseman employee. Roseman can have their own employees serve as a Title IX Investigator or outsource this role to contractors.

Written Determination about Sex Discrimination

Means that the parties are notified in writing of

- (1) the determination whether sex discrimination occurred under Title IX
- (2) including the rationale for such determination, and
- (3) the procedures and permissible bases for the complainant and respondent to appeal.

Written Determination about Sex-Based Harassment

Means that this written determination must include:

- (1) A description of the alleged sex-based harassment; and
- (2) Information about the policies and procedures that Roseman used to evaluate the allegations; and
- (3) The Title IX Decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred; and
- (4) When the Title IX Decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions Roseman will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by Roseman to the complainant, and, to the extent appropriate, other students identified by Roseman to be experiencing the effects of the sex-based harassment; and
- (5) Roseman's procedures for the complainant and respondent to appeal.

III. Roseman University's Response to Sex Discrimination

Roseman University, when it has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity, must respond promptly and effectively.

Notification Requirements

Roseman employees who have information about conduct that reasonably may constitute sex discrimination under Title IX are not permitted to ignore such conduct. However, these requirements do not apply to an employee who has personally been subject to conduct that reasonably may constitute sex discrimination under Title IX. An employee's decision as to whether to notify the Title IX Coordinator that the employee was subjected to sex discrimination or make a complaint of sex discrimination, including sex-based harassment, should be left up to the employee complainant. However, if the employee complainant tells another employee, then the employee who receives the information would have to comply with the notification requirements.

In the preamble to 2024 Title IX regulations the Department of Education explained that if an employee directly witnesses conduct under the recipient's [i.e., Roseman's] program or activity that reasonably may constitute sex discrimination, including sex-based harassment, the employee will be considered to have "information about conduct that reasonably may constitute sex discrimination" under the regulations.

Confidential Employee

A Roseman employee classified as a 'Confidential Employee' is:

- (1) An employee of Roseman whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
These types of confidential Roseman employees may include, but are not limited to, Roseman Medical Group clinic employees, licensed medical or clinical professionals.
- (2) A Roseman employee whom Roseman has designated as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services;
These types of confidential employees may include, but are not limited to, guidance counselors, organizational ombuds, or staff within an on-campus sexual assault response center.

or

- (3) A Roseman employee whom is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

Roseman requires a ‘Confidential Employee’ to explain to any person who informs the ‘Confidential Employee’ of conduct that reasonably may constitute sex discrimination under current Title IX regulations:

- (1) The employee’s status as confidential for purposes of Title IX, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;
- (2) How to contact Roseman’s Title IX Coordinator and how to make a complaint of sex discrimination; and
- (3) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Roseman must notify all participants its education program or activity of how to contact its confidential employees, if any, excluding any employee whose confidential status is only with respect to their conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination as set out in the definition of confidential employee under the 2024 Title IX regulations.

Employees Who Are Not Confidential Employees

Any employee who is not a confidential employee and who either has authority to institute corrective measures on behalf of Roseman or has responsibility for administrative leadership, teaching, or advising in Roseman’s education program or activity is required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under current Title IX regulations.

Roseman employees who are not confidential employees are required to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.

In the preamble to 2024 Title IX regulations the Department of Education noted that postsecondary institutions [i.e., Roseman] must distinguish between two categories of employees who are not confidential employees:

(1) Category 1

Those who either have authority to institute corrective measures on behalf of Roseman or responsibility for administrative leadership, teaching, or advising in Roseman’s education program or activity. If the employee has authority to institute corrective measures on behalf of Roseman or has responsibility for administrative leadership, teaching, or advising in the education program or activity, then the employee is in Category 1.

Category 1 employees must notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.

and

(2) Category 2

This category is all other employees who are not confidential employees and not covered under Category 1.

Category 2 employees must notify Roseman's Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX.

This requirement does not require more than stating that Roseman's Title IX Coordinator will provide information about the grievance procedures, supportive measures, and how to make a complaint of sex discrimination.

In the preamble to 2024 Title IX regulations the Department of Education noted that a potential complainant who wants confidential support has the discretion to seek out a confidential employee. Even if the information a potential complainant provides to a non-confidential employee is reported to the Title IX Coordinator, it will only prompt a complaint without the complainant's permission if the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the potential complainant or other person or prevents Roseman from ensuring equal access based on sex to its education program or activity.

Roseman must reasonably determine and specify whether and under what circumstances a person who is both a student and an employee is subject to the requirements of Title IX.

Title IX Coordinator's Responsibilities

Roseman University's Title IX Coordinator is responsible for coordinating Roseman's compliance with its obligations under Title IX. Roseman requires its Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX or this part, to take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects. In the preamble to 2024 Title IX regulations the Department of Education noted that the Title IX Coordinator can delegate the provision and implementation of remedies to designees when the Title IX Coordinator coordinates the provision and implementation of remedies. For example, remedies that involve transcript changes would need to be coordinated through the Registrar's Office and remedies that involve counseling would need to be coordinated through counseling resources.

- (1) The Title IX Coordinator must treat the complainant and respondent equitably;
- (2) The Title IX Coordinator must offer and coordinate supportive measures, as appropriate, for the complainant. In addition, if Roseman has initiated grievance procedures or offered an informal resolution process to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent. Please see the 'Supportive Measures' section of this policy.
- (3) The Title IX Coordinator must:
 - (A) Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the grievance procedures and the informal resolution process if available and appropriate;
and
 - (B) If a complaint is made, notify the respondent of the grievance procedures (please see the Title IX Grievance' sections of this policy) and the informal resolution process if available and appropriate (please see the 'Informal Resolution' section of this policy)

(4) The Title IX Coordinator must:

- (A) Monitor Roseman’s education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX; and
- (B) Take steps reasonably calculated to address such barriers.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that a recipient [i.e., Roseman] has the flexibility to determine which strategies would be most appropriate and effective in their educational setting and the Department declined to require specific actions. The Department reiterated the importance of Roseman tailoring efforts to uncover and address barriers to reporting sex discrimination to the methods and strategies Roseman determines are likely to be most effective in Roseman’s setting.

Public Awareness Events

When Roseman’s Title IX Coordinator is notified of information about conduct that reasonably may constitute sex-based harassment under Title IX that was provided by a person during a public event to raise awareness about sex-based harassment that was held on Roseman’s campus or through an online platform sponsored by Roseman, Roseman is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other persons. However, in all cases Roseman must use this information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment. Nothing in Title IX obligates Roseman to require its Title IX Coordinator or any other employee to attend such public awareness events.

Right to Call for Temporary Delay or Extension of Time Frames for Title IX Notices and Title IX Grievance Processes, Including Appeals, for Good Cause

The Title IX Coordinator, the Title IX Investigator, the Title IX Decisionmaker, and the Title IX Appeals Decisionmaker each has the right to call for a temporary delay of Roseman’s Title IX notice of allegations, grievance processes, including appeals, or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reason(s) for the action.

A complainant’s or respondent’s request to extend any deadline must be made in writing to the Title IX Coordinator or designee. The Title IX Coordinator or designee will only grant a complainant’s and/or respondent’s request to extend a deadline for good cause and if granting the request does not unreasonably extend the total duration of Roseman’s Title IX grievance process. For the Title IX Coordinator or designee to consider a request to extend a deadline, the complainant and/or respondent must:

- submit a written request to extend the deadline to the Title IX Coordinator or designee on or before the deadline,
- the written request must include the rationale for the extension, and
- the written request must propose a new date and time for the deadline.

If the Title IX Coordinator or designee grants a request to extend a deadline, the Title IX Coordinator will notify each party in writing that an extension will be granted to both parties and state the reason(s) why the decision was made for good cause.

Unless a deadline extension has been approved in writing by the Title IX Coordinator or designee, a complainant, respondent or anyone acting on their behalf, is not allowed to submit information received after the deadline to the Title IX Investigator, Title IX Decisionmaker and/or Title IX Appeals Decisionmaker. The Title IX Investigator, Title IX Decisionmaker and/or Title IX Appeals Decisionmaker will disregard evidence that was submitted after an approved deadline.

Emergency Removal

Roseman University can remove a respondent from Roseman’s education program or activity on an emergency basis, provided that Roseman undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that it was not necessary to specify a maximum amount of time for emergency removal arising from allegations of sex discrimination. However, the Department explained that if a recipient [i.e., Roseman] seeks permanent expulsion or removal of an individual, Roseman must implement the grievance procedures established in the 2024 Title IX regulations prior to taking such action.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that it was unnecessary for the Department to define what constitutes an emergency or to specify the level of process Roseman must provide through its procedures to challenge an emergency removal, beyond providing the respondent with notice and an opportunity to challenge the decision immediately following the removal. The Department also noted that Roseman must have the flexibility to address emergency situations and that the 2024 Title IX regulations appropriately balances the seriousness of a respondent’s removal and rights to receive the “essential” protections of due process against the risks raised in situations in which emergency removal is justified.

Administrative Leave

Roseman University can place an employee respondent on administrative leave from employment responsibilities during the pendency of Roseman’s grievance procedures. This provision must not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*

Prohibited Disclosures of Personally Identifiable Information

Roseman University must not disclose personally identifiable information obtained in the course of complying with Title IX requirements, except in the following circumstances:

- (1) When Roseman has obtained prior written consent from a person with the legal right to consent to the disclosure;
- (2) When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
- (3) To carry out the purposes of Title IX, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in Roseman's education program or activity;
- (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
- (5) To the extent such disclosures are not otherwise in conflict with Title IX, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that in some circumstances, it may be sufficient to inform the parties of a recipient's [i.e., Roseman] expectations for how the parties should safeguard the evidence and the consequences for unauthorized disclosures, whereas other circumstances may warrant software that restricts further distribution.

IV. Roseman University’s Response to: 1) Conduct that Reasonably May/May Not Constitute Sex Discrimination, 2) a Complaint, 3) the Absence of a Complaint or the Withdrawal of Any or All of the Allegations in a Complaint, and in the Absence or Termination of an Informal Resolution Process, and When Appropriate, the Dismissal of a Complaint

Notice of Conduct that Reasonably May/May Not Constitute Sex Discrimination

Any person may report sex discrimination, including sex-based harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sex-based harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for Roseman University’s Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

When Roseman University’s Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination under Title IX (and in the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process), the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination as required under Title IX.

In the preamble to the 2024 Title IX regulations, the Department of Education explained that it understood that complainants may not always disclose their experiences with the intent to initiate grievance procedures and may be seeking support and guidance.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that the Title IX Coordinator’s role is not to serve as a confidential advisor to the complainant or any other party. It is appropriate for a potential complainant to carefully explain to a Title IX Coordinator what they are alleging, and for the Title IX Coordinator to carefully confirm both what is being alleged and whether the complainant intends to initiate the grievance procedures.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that not all reports will result in an investigation. While Roseman must train and require its non-confidential employees to report information about conduct that they believe reasonably may constitute sex discrimination to the Title IX Coordinator, a Title IX Coordinator’s assessment of the same report might reasonably conclude that the conduct as alleged could not constitute sex discrimination.

In the preamble to the 2024 Title IX regulations, the Department of Education clarified that even after a Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination under the current regulations, complainants retain autonomy over whether to make a complaint. Only in very limited circumstances do the regulations contemplate that a Title IX Coordinator may initiate a complaint after a complainant has declined to do so, which includes a complainant’s request not to proceed with a complaint investigation as a factor the Title IX Coordinator must consider when determining whether to initiate a complaint of sex discrimination.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that upon being notified of conduct that reasonably may constitute sex discrimination under Title IX, the Title IX Coordinator must notify a complainant, or the individual who reported the conduct if the complainant

is unknown, of Roseman’s Title IX grievance procedures, and the informal resolution process, if available and appropriate. The Department explained in the preamble to the 2024 Title IX regulations that the Department anticipated that during such conversations, once the Title IX Coordinator has explained the grievance procedures, they will confirm whether the individual reporting the alleged discrimination does in fact want the recipient [i.e., Roseman] to conduct an investigation to make a determination regarding their allegations. Whether the answer is in the affirmative or the negative, nothing in the 2024 Title IX regulations would preclude the Title IX Coordinator from memorializing in writing the outcome of that conversation to help avoid any possible confusion about agreed upon next steps. And although these regulations do not require a complaint to be in writing, nothing in these regulations prevents a complainant from memorializing their oral complaint in writing or confirming in writing that Roseman received their complaint.

Roseman’s Title IX Coordinator is required to notify the complainant before initiating the Title IX grievance process and appropriately address reasonable concerns related to the complainant’s safety or the safety of others. For example, the complainant may have indicated to the Title IX Coordinator a preference not to initiate Roseman’s grievance procedures in a case involving serious allegations of sexual misconduct because the complainant encounters the respondent on the walk to and from classes. The complainant may have a reasonable concern that the respondent will engage in physically threatening behavior based on prior experiences. The Title IX Coordinator could offer to address the complainant’s reasonable safety concerns by offering to provide an escort to accompany the complainant to and from class.

When the Title IX Coordinator receives a report of sex discrimination, the Title IX Coordinator must promptly contact (within at least three (3) business days) the person making the report.

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause
The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant of the delay or extension and the reasons for the action.

Filing a complaint is not required for a complainant to receive supportive measures. Complainants will have the opportunity to express what they would like in the form of supportive measures, and the Title IX Coordinator will take into account the complainant’s wishes in determining which supportive measures to offer. The process for offering supportive measures after considering the complainant’s wishes is an interactive process that is not unlike the interactive process that the American with Disabilities Act (ADA) requires. The Title IX Coordinator retains the discretion to tailor supportive measures to a party’s unique circumstances and may not foresee or anticipate all possible supportive measures.

Response to Complaint

Roseman University’s Title IX Coordinator is not required to comply with the Title IX requirements to respond upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX.

The Title IX Coordinator, regardless of whether a complaint is initiated, must take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.

In response to a complaint, the Title IX Coordinator will initiate the grievance procedures under the 2024 Title IX regulations or the informal resolution process, if available and appropriate and requested by all parties.

If the Title IX Coordinator initiates a complaint, the Title IX Coordinator must notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures.

Persons with the Right to Make a Complaint of Sex Discrimination, Including Complaints of Sex-Based Harassment

The following persons have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that Roseman investigate and make a determination about alleged discrimination under Title IX:

- (1) A complainant, which includes
 - (A) a student or employee of Roseman who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - (B) a person other than a student or employee of Roseman who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Roseman's education program or activity;
- (2) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
- (3) Roseman's Title IX Coordinator, after making the determination specified in current Title IX regulations;
When Roseman's Title IX Coordinator is notified of conduct that reasonably may constitute sex discrimination under Title IX (and in the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process), the Title IX Coordinator must determine whether to initiate a complaint of sex discrimination as required under Title IX.
- (4) With respect to complaints of sex discrimination other than sex-based harassment, in addition to the persons listed above:
 - (A) Any Roseman student or employee; or
 - (B) Any person other than a student or employee who was participating or attempting to participate in Roseman's education program or activity at the time of the alleged sex discrimination.

A person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements.

The Department of Education in the preamble to the 2024 Title IX regulations noted that it is important for a recipient [i.e., Roseman University] to initiate the grievance procedures when requested by a complainant, and for Roseman not to initiate the grievance procedures if a complainant is not ready or does not want to initiate them, except in the limited circumstances in which the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of a complainant or other person or prevents the recipient from ensuring equal access based on sex to its education program or activity.

The Department of Education in the preamble to the 2024 Title regulations noted that a scenario in which a complaint could be made by a student on behalf of another student is only possible for complaints of sex discrimination that are not sex-based harassment. This recognizes that allegations of sex-based harassment may involve deeply personal and sensitive issues. The Department noted that the heightened need for complainant autonomy in cases of sex-based harassment justifies limiting complaints of sex-based harassment to those who have been aggrieved.

The Department of Education in the preamble to the 2024 Title regulations noted that with respect to a complaint brought by a former student or employee who was participating or attempting to participate in the recipient's [i.e., Roseman] education program or activity at the time of the alleged sex discrimination, Roseman should proceed just as it would with all other complaints under Roseman's grievance procedures in accordance with 2024 Title IX regulations. If, at the time the complaint is filed, however, the respondent is no longer participating in Roseman's education program or activity or is no longer employed by Roseman, the complaint may be dismissed. The Department of Education declined to adopt a statute of limitations for the filing of a sex discrimination complaint in the 2024 Title IX regulations.

Consolidation of Complaints

Roseman may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable. The grievance procedures for investigating and resolving the consolidated complaint must comply with the 2024 Title IX regulations.

The Department of Education in the preamble to the 2024 Title IX regulations noted that a recipient [i.e., Roseman] is not permitted to consolidate complaints if consolidation would violate the Family Educational Rights and Privacy Act (FERPA). Consolidation would not violate FERPA when Roseman obtains prior written consent from the parents or eligible students to the disclosure of their education records.

Response in the Absence of a Complaint or the Withdrawal of any or All of the Allegations in a Complaint, and in the Absence or Termination of an Informal Resolution Process

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, Roseman University's Title IX Coordinator must determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures under current Title IX regulations:

To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:

- (1) The complainant's request not to proceed with initiation of a complaint;
 - (2) The complainant's reasonable safety concerns regarding initiation of a complaint;
 - (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
 - (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - (5) The age and relationship of the parties, including whether the respondent is a Roseman employee;
 - (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 - (7) The availability of evidence to assist a Title IX Decisionmaker in determining whether sex discrimination occurred; and
 - (8) Whether Roseman could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures under the 2024 Title IX regulations.
 - (B) If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents Roseman from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.
- (6) If initiating a complaint given the section above, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures consistent with the section above; and
 - (7) Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within Roseman's education program or activity.

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents Roseman from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that consideration of the factors listed above will not require an investigation by a Title IX Coordinator to determine whether to initiate a complaint. Most of the required factors relate to information that the Title IX Coordinator will receive with the report or in conversations with a complainant if they agree to speak with the Title IX Coordinator, including the complainant's request not to proceed with a complaint and

any reasonable safety concerns shared, as well as the severity of the alleged discrimination, the age and relationship of the parties, and whether the respondent is a Roseman employee.

In the preamble to the 2024 Title IX regulations, the Department of Education clarified that a determination as to whether a concern for safety is reasonable necessarily begins with the particular allegations and particular individuals involved and may take into account factors such as any history of violent or abusive conduct, any credible threats of self-harm or harm to others, whether a person needs to secure different housing or a schedule change, or evidence of substance abuse. The Department noted that this analysis must be individualized and must not rely on mere speculation or stereotypes. The Department noted that with respect to the timeframe within which notice must be provided after a delay that these determinations will depend on the steps that need to be taken to address the safety concern. For example, if Roseman determines that a complainant lives with the respondent and needs to secure a safe place to stay, the delay should not exceed the amount of time it takes for the complainant to relocate. However, Roseman may not unreasonably delay providing the notice. The notice may be delayed only to the extent necessary to address reasonable safety concerns, and Roseman must always provide notice with sufficient time for the parties to prepare a response before any initial interview.

Dismissal of a Complaint of Sex Discrimination

- (1) Roseman University may dismiss a complaint of sex discrimination made through its grievance procedures under for any of the following reasons:
 - (A) Roseman is unable to identify the respondent after taking reasonable steps to do so;
 - (B) The respondent is not participating in Roseman’s education program or activity and is not a Roseman employee;
 - (C) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint under the 2024 Title IX regulations, and Roseman determines that, without the complainant’s withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
 - (D) Roseman determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Prior to dismissing the complaint, Roseman must make reasonable efforts to clarify the allegations with the complainant.
- (2) Upon dismissal, Roseman must promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Roseman must also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

Roseman will notify the complainant, and when appropriate, the respondent, about the basis for the dismissal within five (5) business days after the Title IX Coordinator arrives at this decision.

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause
The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

- (3) Roseman must notify the complainant that a dismissal may be appealed and provide the complainant with an opportunity to appeal the dismissal of a complaint on the bases set out in Roseman's Title IX Appeals policy. If the dismissal occurs after the respondent has been notified of the allegations, then Roseman must also notify the respondent that the dismissal may be appealed on the bases set out in Roseman's Title IX Appeals policy.

The complainant and respondent have the right to appeal the Title IX Coordinator's decision to dismiss the complaint to the Title IX Appeals Decisionmaker within five (5) business days after the Title IX Coordinator sent the written notice of dismissal.

For an explanation of the process of appealing a dismissal of a complaint, please see the 'Appeals' section of this policy.

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause

The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

If the Dismissal is Appealed, Roseman Must:

- (A) Notify the parties of any appeal, including notice of the allegations consistent with the 2024 Title IX requirements if this notice was not previously provided to the respondent;
 - (B) Implement appeal procedures equally for the parties;
 - (C) Ensure that the Title IX Appeals Decisionmaker did not take part in an investigation of the allegations or take part in the decision to dismiss the complaint;
 - (D) Ensure that the Title IX Appeals Decisionmaker has been trained;
 - (E) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - (F) Notify the parties of the result of the appeal and the rationale for the result.
- (4) When Roseman dismisses a complaint, it must, at a minimum:
- (A) Offer supportive measures to the complainant as appropriate;
 - (B) For dismissals in which the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
 - (C) Require the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Roseman's education program or activity.

Dismissal of a Complaint Alleging Sex-Based Harassment

When dismissing a complaint alleging sex-based harassment involving a student complainant or a student respondent, Roseman University must:

- (1) Provide the parties, simultaneously, with written notice of the dismissal and the basis for the dismissal, within five (5) business days after the Title IX Coordinator arrives at this decision except if the dismissal occurs before the respondent has been notified of the allegations, in which case Roseman must provide such written notice only to the complainant;

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause
The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

and

- (2) Obtain the complainant's withdrawal in writing if dismissing a complaint based on the complainant's voluntary withdrawal of the complaint or allegations

V. Informal Resolution

In lieu of resolving a complaint through Roseman University's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. Roseman will inform the parties in writing of any informal resolution process it offers, when appropriate (e.g., Roseman does not offer informal resolution when such a process would conflict with Federal, State, or local law).

Before the initiation of an informal resolution process, Roseman will explain in writing to the parties the requirements of the informal resolution process.

The requirements related to informal resolution are set forth in § 106.44(k): *Discretion to offer informal resolution in some circumstances – see Appendix.*

(k)(1) At any time prior to determining whether sex discrimination occurred under § 106.45, and if applicable § 106.46, Roseman may offer to a complainant and respondent an informal resolution process, unless such a process would conflict with Federal, State or local law. When Roseman provides the parties an informal resolution process it must, to the extent necessary, also require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Roseman's education program or activity. Roseman University has the discretion to offer the parties an informal resolution process at any time before determining whether sex discrimination occurred, including before an investigation commences, as well as during the course of an investigation. Nothing in the regulations prevents Roseman from offering informal resolution to the complainant first.

In the preamble to the 2024 Title IX regulations, the Department of Education declined to mandate specific requirements for an informal resolution process beyond those stated in the regulations, to provide a recipient [i.e., Roseman] the discretion to offer an informal resolution process that can be structured to accommodate the particular needs of the parties, Roseman, and the particular circumstances of the complaint in the most effective manner. Informal resolution may encompass a wide variety of alternative dispute resolution processes, and the 2024 Title IX regulations provide Roseman discretion to choose a resolution option that is best for Roseman, the parties, and their educational communities. Informal resolution accordingly may encompass a broad range of conflict resolution strategies. Roseman has discretion to offer informal resolution under more circumstances, including without requiring the complainant to make a complaint requesting that Roseman initiate its grievance procedures. Roseman is in the best position to determine whether an informal resolution process would be appropriate based on the facts and circumstances, except that Roseman must not offer informal resolution when such a process would conflict with Federal, State, or local law.

The Department clarified in the preamble to the 2024 Title IX regulations that these regulations afford a recipient [i.e., Roseman] discretion to offer the parties an informal resolution process at any time before determining whether sex discrimination occurred, including before an investigation commences, as well as during the course of an investigation. If a party pursues an informal resolution process without having made a complaint, they retain the right to withdraw from the informal resolution process prior to agreeing to a resolution and to initiate or resume Roseman's grievance procedures. Further, if an investigation has commenced under the grievance procedures, and if the circumstances in which informal resolution is prohibited or may be declined

by the Title IX Coordinator do not apply, a party could still choose to participate in informal resolution before a determination whether sex discrimination occurred has been made.

- (i) Subject to the limitations in paragraph (k)(1) of this section, Roseman has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or when a complaint of sex discrimination is made and may decline to offer informal resolution despite one or more of the parties' wishes.
 - (ii) In addition to the limitations in paragraph (k)(1) of this section, circumstances when Roseman may decline to allow informal resolution include but are not limited to when Roseman determines that the alleged conduct would present a future risk of harm to others.
- (2) Roseman must not require or pressure the parties to participate in an informal resolution process. Roseman must obtain the parties' voluntary consent to the informal resolution process and must not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.
- (3) Before initiation of an informal resolution process, Roseman must provide to the parties notice that explains:
- (i) The allegations;
 - (ii) The requirements of the informal resolution process;
 - (iii) That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume Roseman's grievance procedures;
 - (iv) That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
 - (v) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
 - (vi) What information Roseman will maintain and whether and how Roseman could disclose such information for use in grievance procedures under § 106.45, and if applicable § 106.46, if grievance procedures are initiated or resumed.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that providing the parties notice of the allegations is essential even when resolving a case informally, to ensure the parties can make an informed decision as to whether to agree to participate in an informal resolution process.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that an admission, alone, outside the context of the 2024 Title IX grievance procedures is not a determination whether sex discrimination occurred. Accordingly, nothing prohibits a recipient [i.e., Roseman] from offering an informal resolution process in which a respondent may accept responsibility or accountability for sex discrimination or harm caused.

- (4) The facilitator for the informal resolution process must not be the same person as the Title IX Investigator or the Title IX Decisionmaker in Roseman's grievance procedures. Any person designated by Roseman to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution must receive training that complies with the 2024 Title IX regulations – see the 'Training' section of this policy.

(5) Potential terms that may be included in an informal resolution agreement include but are not limited to:

(i) Restrictions on contact

In the preamble to the 2024 Title IX regulations, the Department of Education clarified that restrictions on contact may be non-mutual or mutual. The Department also clarified that a recipient [i.e., Roseman] may impose restrictions on contact prior to the completion of grievance procedures either as a supportive measure during the pendency of grievance procedures and prior to a determination whether sex discrimination occurred; or as a term of an informal resolution agreement, which the regulations specify may include restrictions Roseman could have imposed as remedies or disciplinary sanctions had Roseman determined at the conclusion of grievance procedures that sex discrimination occurred;

and

(ii) Restrictions on the respondent's participation in one or more of Roseman's programs or activities or attendance at specific events, including restrictions Roseman could have imposed as remedies or disciplinary sanctions had Roseman determined at the conclusion of Roseman's grievance procedures that sex discrimination occurred.

In the preamble to the 2024 Title IX regulations the Department of Education noted that this notice of potential terms need not cover every possible measure, remedy, or sanction to which the parties may agree. Rather, the terms covered in this section would provide the general framework and parameters of the resolution agreement so that the parties can provide informed consent.

The Department of Education noted in the preamble to the 2024 Title IX regulations that prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the recipient's [i.e., Roseman] grievance procedures. If a party breaches the resolution agreement or if Roseman has other compelling reasons, such as if it learns of any fraud by a party in entering into the agreement, Roseman may void the informal resolution agreement and initiate or resume grievance procedures. The Department noted that this is only one example, and there may be other situations in which Roseman could similarly decide to initiate or resume its grievance procedures, as long as Roseman exercises its discretion in a manner that is equitable to the parties and otherwise complies with the 2024 Title IX regulations.

The Department of Education in the preamble to the 2024 Title IX regulations noted that a recipient [i.e., Roseman] has discretion to determine when informal resolution is not appropriate, notwithstanding the parties' consent. In making this determination, Roseman may consider the factors a Title IX Coordinator must consider when determining whether to initiate a complaint of sex discrimination. There may be other circumstances when Roseman may also decline to offer the parties informal resolution, depending upon the facts and circumstances. Roseman will consider the nature of the allegations or information involved, or other factors, such as the risk of future harm to others, or repeated allegations against the same respondent, when Roseman believes it is more appropriate to pursue resolution through grievance procedures. This fact specific inquiry depends, in part, on the allegations, the identity of the parties, and Roseman's ability to exert control over them.

The Department of Education in the preamble to the 2024 Title IX regulations declined to require a recipient [i.e., Roseman] to provide its reasons for declining to offer informal resolution in writing.

VI. Supportive Measures

Roseman University will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to Roseman's education program or activity or provide support during Roseman's Title IX grievance procedures or during the informal resolution process.

For allegations of sex discrimination other than sex-based harassment or retaliation, Roseman's provision of supportive measures does not require Roseman, its employee, or any other person authorized to provide aid, benefit, or service on Roseman's behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that regardless of whether a complainant seeks to initiate the grievance procedures, the current regulations require the Title IX Coordinator to offer and, if accepted, coordinate supportive measures, as appropriate, for the complainant. Nothing in the 2024 Title IX regulations restricts how the Title IX Coordinator can assign the duties of offering and coordinating supportive measures to other personnel. The Department of Education recognized that some recipients [i.e., Roseman] may find it helpful to delegate certain duties related to the provision of supportive measures.

Roseman must offer and coordinate supportive measures, as appropriate, as described in this section. Additionally, please see Roseman's definition of 'Supportive Measures' in the 'Definition' section of this policy.

For complaints of sex-based harassment, these supportive measures may include measures that complies with § 106.44(g). Please see the 'Appendix' section of this policy to find the specific regulations referenced below § 106.2, § 106.44, § 106.45, and § 106.46.

(1) Supportive measures may vary depending on what Roseman deems to be reasonably available.

These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

In the preamble to the 2024 Title IX regulations the Department of Education noted that a recipient [i.e., Roseman] may apply mutual or non-mutual no-contact orders to complainants and/or respondents as supportive measures. However, in considering whether to provide a no-contact order, Roseman must ensure that a no-contact order is not imposed for punitive or disciplinary reasons and does not unreasonably burden a complainant or a respondent.

(2) Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or Roseman's educational environment, or to provide support during Roseman's grievance procedures under § 106.45, and if applicable § 106.46, or during the informal resolution process under § 106.44(k). Roseman must not impose such measures for punitive or disciplinary reasons.

- (3) Roseman may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures under § 106.45, and if applicable § 106.46, or at the conclusion of the informal resolution process under paragraph (k) of this section, or Roseman may continue them beyond that point.
- (4) Roseman must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of Roseman's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in § 106.2. Roseman must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The Department of Education in the preamble to the 2024 Title IX regulations noted that the Title IX Coordinator may choose to delegate the responsibility to provide or deny supportive measures to another employee and provide appropriate and impartial review of requests to terminate or modify such measures themselves, or the Title IX Coordinator may be the one to provide or deny supportive measures and the recipient [i.e., Roseman] or the Title IX Coordinator may designate an alternative appropriate and impartial administrator to review challenges to supportive measures. To ensure that the parties receive an independent review, however, neither the Title IX Coordinator nor any other employee will be permitted to both provide and review the same supportive measures.

The Department of Education in the preamble to the 2024 Title IX regulations offered some examples of when a complainant or respondent could/could not challenge a supportive measure. When a complainant seeks, as a supportive measure, to transfer out of a particular section of a course so as not to be in the same class as the respondent, the recipient [i.e., Roseman] would not be required to provide the respondent with an opportunity to challenge Roseman's decision to provide or decline such a supportive measure, because the requested supportive measure is not applicable to the respondent. When a complainant requests a supportive measure that applies to a respondent, such a measure would be applicable to both parties and a respondent could challenge the decision to provide the supportive measure or a complainant could challenge the decision to deny it. When Roseman provides a supportive measure to a respondent that a complainant did not request and that is not applicable to the complainant, such as additional training, Roseman would not be required to provide the complainant with the opportunity to challenge Roseman's decision to provide the supportive measure.

- (5) Roseman must not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in § 106.44(j)(1) through (5) applies.

The Department of Education in the preamble to the 2024 Title IX regulations offered some examples of this requirement. For example, if one party is receiving counseling as a supportive measure, the Department does not anticipate that any of the exceptions of this provision would apply to allow the recipient [i.e., Roseman] to disclose that information to another party. However,

there are occasions where disclosure to the other party may be necessary to restore or preserve a party's access to the education program or activity, such as where it may be necessary to tell one party that another party has moved to a new dorm in order to maintain the protections of an existing stay-away order.

- (6) If the complainant or respondent is a postsecondary student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that Roseman has with the definition of supportive measures in § 106.2. Roseman must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

In the preamble to the 2024 Title IX regulations, the Department of Education agreed that there may be supportive measures that apply retroactively, such as retroactive withdrawals, extensions of deadlines, adjustments to transcripts, or tuition reimbursements, that, if reasonably available, can be appropriate to restore or preserve a party's access to a recipient's [i.e., Roseman] education program or activity.

VII. Roseman University's Grievance Procedures for the Prompt and Equitable Resolution of Complaints of Sex Discrimination

Roseman University has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

When Roseman has knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity it must respond promptly and effectively; and it must comply with Title IX regulations to address sex discrimination in its education program or activity.

Roseman's grievance procedures for the prompt and equitable resolution of complaints of sex discrimination are in writing and incorporate Title IX requirements. The requirements related to a respondent apply only to sex discrimination complaints alleging that a person violated Roseman's prohibition on sex discrimination. When a sex discrimination complaint alleges that Roseman's policy or practice discriminates on the basis of sex, Roseman is not considered a respondent.

Roseman will only initiate its Title IX grievance procedures when a written or oral report meets the standards for a "complaint" as defined by Roseman's Title IX policy.

The 2024 Title IX amendments give recipients [i.e., Roseman] discretion to choose to use certain procedures (e.g., single investigator, live hearings) for some, but not all, complaints of sex discrimination. When Roseman chooses to adopt grievance procedures that apply to the resolution of some, but not all, complaints, the 2024 Title IX regulations require Roseman's grievance procedures to articulate consistent principles for how Roseman will determine which procedures apply. Under this provision, for example, a postsecondary institution that chooses to utilize a live hearing only for some types of sex-based harassment complaints and a single-investigator model for others would be required to explain in its grievance procedures the circumstances under which, or the types of complaints to which, either model would apply. Roseman University will use and apply the same grievance procedures for all complaints of sex-discrimination. Roseman's Title IX grievance procedures will not include additional provisions beyond those required by the 2024 Title IX amendments.

The 2024 Title IX amendments do not permit Roseman to use different procedures for different parties within a specific complaint investigation (e.g., use a live hearing with questioning by an advisor for assessing the credibility of one party and use live questioning during individual meetings to assess the credibility of the other party) absent a party's need for a disability-related accommodation or language access services.

Basic Requirements for Grievance Procedures

- Roseman University will treat complainants and respondents equitably.
- Roseman requires that any Title IX Coordinator, Title IX Investigator, Title IX Decisionmaker, or Title IX Appeals Decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- A Title IX Decisionmaker will not be the same person as the Title IX Coordinator or Title IX Investigator.

- Roseman presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
- Roseman has established timeframes for the major stages of the grievance procedures: Roseman's description of these reasonably prompt timeframes for the major stages of such as the decision whether to dismiss or investigate a complaint, conduct a Title IX investigation, decide responsibility, and the appeals process are described in the sections for these stages in this policy.

In the preamble to the 2024 Title IX regulations The Department of Education declined to assign a particular timeframe to certain stages/terms because a recipient [i.e., Roseman] should retain flexibility to designate appropriate timeframes, and what is “prompt” or “reasonable” is a decision that must be made in the context of Roseman’s obligation to provide an education program or activity free from sex discrimination.

- Roseman has established a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. This is described in the sections for these major stages in this policy. Additionally, in the preamble to the 2024 Title IX regulations, the Department of Education declined to require a recipient [i.e., Roseman] to delay its grievance procedures when there is an ongoing concurrent law enforcement proceeding and likewise declines to specifically prohibit Roseman from delaying a grievance proceeding due to a concurrent law enforcement proceeding. A variety of situations may necessitate the reasonable extension of timeframes on a case-by-case basis for good cause, including the possibility of a concurrent law enforcement proceeding. On the other hand, a concurrent law enforcement proceeding will not always constitute good cause for a delay, and the Department encourages Roseman whenever possible to apply their grievance procedures in a manner that avoids the need for an extension.
- Roseman will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of Roseman's grievance procedures, provided these steps do not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.
- Roseman will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.
- Roseman will exclude the following types of evidence, and questions seeking that evidence, as impermissible (i.e., must not be accessed or considered, except by Roseman to determine whether an exception in (i) through (iii) applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:
 - (i) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - (ii) A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Roseman obtains that party’s or witness’s voluntary, written consent for use in Roseman’s grievance procedures; and
 - (iii) Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone

other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

The Department of Education noted in the preamble to the 2024 Title IX regulations that evidence related to sexual interests includes, but is not limited to, evidence like mode of dress, speech, and lifestyle.

- The Department of Education noted in the preamble to the 2024 Title IX regulations that it was appropriate for the Department to provide a recipient [i.e., Roseman] with discretion to use certain procedures for some, but not all, complaints of sex discrimination, provided that it informs its education community in advance of when certain procedures apply. This means that, if Roseman decided to do so, that it must provide information regarding what factors, if any, Roseman will consider when determining under what circumstances or to which types of sex discrimination complaints certain procedures apply (e.g., complaints involving certain forms of sex-based harassment, student-to-student sex-based harassment complaints, complaints with certain types of evidence). Although this provision permits Roseman to use different procedures for some, but not all, complaints of sex discrimination, Roseman is not permitted to use different procedures for different parties within a specific complaint investigation (e.g., use a live hearing with questioning by an advisor for assessing the credibility of one party and use live questioning during individual meetings to assess the credibility of the other party) absent a party's need for a disability-related accommodation or language access services.

Roseman will not adopt grievance procedures that apply to the resolution of some, but not all, complaints.

Written Notice of Allegations

Upon initiation of Roseman University's grievance procedures, Roseman University must provide written notice of the allegations to the parties whose identities are known. The notice must include:

- (1) Roseman's grievance procedures, and if applicable, any informal resolution process*

**Title IX does not require Roseman to offer an informal resolution process. However, Roseman is free to provide such a process in some circumstances, as long as Roseman complies with Title IX regulations.*

- (2) Sufficient information available at the time to allow the parties to respond to the allegations.

Sufficient information includes the

- (A) identities of the parties involved in the incident(s),
- (B) the conduct alleged to constitute sex discrimination,
- (C) and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the recipient. Roseman provides access to a Title IX Investigative Report. However, the parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party;

- (3) A statement that retaliation is prohibited; and

- (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence; and if Roseman provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.

The Title IX Coordinator will provide the written ‘Notice of Allegations’ to the parties who are known within five (5) business days of the Title IX Coordinator’s receipt of a complaint. Please see the ‘Notice of Allegations for Sex Discrimination’ in the ‘Definitions’ section for the information that will be provided to each party.

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause

The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

If, in the course of an investigation, Roseman decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, Roseman will notify the parties of the additional allegations.

Complaint Investigation

Roseman University must provide for adequate, reliable, and impartial investigation of complaints. To do so, Roseman:

- (1) Ensures that the burden is on Roseman—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.
- (2) Provides an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.
- (3) Reviews all evidence gathered through the investigation and determines what evidence is relevant and what evidence is impermissible regardless of relevance.
- (4) Provides each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:
 - (A) Roseman provides an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. When Roseman provides a Title IX Investigative Report, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
 - (B) Roseman provides a reasonable opportunity to respond to the evidence or to the accurate description of the evidence. The specific details are provided in the 'Title IX Investigation' section of this policy; and
 - (C) Roseman takes reasonable steps to prevent and address the parties’ unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

The details of Roseman's Title IX Investigative process are provided in the 'Title IX Investigation' section of this policy.

Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

Roseman University provides a process that enables the Title IX Decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination. While Roseman's sex discrimination grievance procedures may, but need not, provide for a live hearing, Roseman will hold a live hearing.

Live Hearing

The details of Roseman University's Title IX Hearing process are provided in the 'Title IX Hearing' section of this policy.

Roseman has the discretion to decide, or upon the request of either party it must, conduct the live hearing with the parties physically present in separate locations, with technology enabling the Title IX Decisionmaker and parties to simultaneously see and hear the party or the witness while that person is speaking. Roseman must create an audio or audiovisual recording or transcript, of any live hearing and make it available to the parties for inspection and review.

Determination Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence Roseman University must:

- (1) Use the preponderance of the evidence (also known as more likely than not) standard of proof to determine whether sex discrimination occurred. This standard of proof requires the Title IX Decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the Title IX Decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Title IX Decisionmaker must not determine that sex discrimination occurred.
- (2) Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal.
- (3) If there is a determination that sex discrimination occurred, as appropriate, require the Title IX Coordinator to:
 - (A) coordinate the provision and implementation of remedies to a complainant and other persons Roseman identifies as having had equal access to Roseman's education program or activity limited or denied by sex discrimination,
 - (B) coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions, and
 - (C) require the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Roseman's education program or activity.

Roseman may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of Roseman's grievance procedures that the respondent engaged in prohibited sex discrimination;

- (4) Comply with the 2024 Title IX grievance procedures, before the imposition of any disciplinary sanctions against a respondent; and
- (5) Not discipline a party, witness, or others participating in Roseman’s grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on Roseman’s determination whether sex discrimination occurred*.

** If a Roseman student's College's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during a Roseman University or College's grievance procedures, the Title IX Coordinator will refer the matter to the student's College administration.*

Following a Determination that Sex Discrimination Occurred, a Description of the Range of Supportive Measures Available to Complainants and Respondents

Please see the ‘Definition’ section for Roseman University’s description of the range of possible supportive measures that could be offered to complainants and respondents.

In the preamble to the 2024 Title IX regulations, the Department noted that, when the elements of sex-based hostile environment are satisfied for an affected student, a recipient [i.e., Roseman] has an obligation to address that hostile environment, even if a particular respondent’s conduct does not justify discipline. For example, in response to a hostile environment created by a series of incidents by different respondents, Roseman may offer supportive measures to the affected student or provide training for the broader school community.

Following a Determination that Sex Discrimination Occurred, a Description of the Range of the Possible Disciplinary Sanctions that the Roseman May Impose and Remedies that Roseman May Provide

Please see Roseman University’s definition of ‘Disciplinary Sanctions’ in the ‘Definition’ section of this policy for the range of possible sanctions that could be imposed on a respondent.

Roseman may also provide remedies - please see Roseman's definition of ‘Remedy’ in the ‘Definition’ section of this policy for the range of possible remedies that Roseman could offer.

Appeals

Roseman offers the parties an appeal process that, at a minimum, is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints. For an explanation of the process of appealing a dismissal of a complaint, please see the ‘Appeals’ section of this policy.

VIII. Roseman University's Grievance Procedures for the Prompt and Equitable Resolution of Complaints of Sex-Based Harassment Involving Student Complainants or Student Respondents

Roseman University has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

When a complainant or respondent is both a Roseman student and an employee, Roseman must make a fact-specific inquiry to determine if the person is a Roseman student or employee under the 2024 Title IX regulations. In making this determination, Roseman must, at a minimum, consider whether the party's primary relationship with Roseman is to receive an education and whether the alleged sex-based harassment occurred while the party was performing employment-related work.

The 2024 Title IX amendments give recipients [i.e., Roseman] discretion to choose to use certain procedures (e.g., single investigator, live hearings) for some, but not all, complaints of sex discrimination. When Roseman chooses to adopt grievance procedures that apply to the resolution of some, but not all, complaints, the 2024 Title IX regulations require Roseman's grievance procedures to articulate consistent principles for how Roseman will determine which procedures apply. Under this provision, for example, a postsecondary institution that chooses to utilize a live hearing only for some types of sex-based harassment complaints and a single-investigator model for others would be required to explain in its grievance procedures the circumstances under which, or the types of complaints to which, either model would apply. Roseman will use and apply the same grievance procedures for all complaints of sex-discrimination. Roseman's grievance procedures will not include additional provisions beyond those required by the 2024 amendments.

The 2024 Title IX amendments do not permit Roseman to use different procedures for different parties within a specific complaint investigation (e.g., use a live hearing with questioning by an advisor for assessing the credibility of one party and use live questioning during individual meetings to assess the credibility of the other party) absent a party's need for a disability-related accommodation or language access services.

Basic Requirements for Grievance Procedures

- Roseman University will treat complainants and respondents equitably.
- Roseman requires that any Title IX Coordinator, Title IX Investigator, Title IX Decisionmaker, or Title IX Appeals Decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
- A Title IX Decisionmaker will not be the same person as the Title IX Coordinator or Title IX Investigator.
- Roseman presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
- Roseman has established timeframes for the major stages of the grievance procedures: Roseman's description of these reasonably prompt timeframes for the major stages of such as the decision whether to dismiss or investigate a complaint, conduct a Title IX investigation, decide

responsibility, and the appeals process are described in the sections for these stages in this policy.

In the preamble to the 2024 Title IX regulations The Department of Education declined to assign a particular timeframe to certain stages/terms because a recipient [i.e., Roseman] should retain flexibility to designate appropriate timeframes, and what is “prompt” or “reasonable” is a decision that must be made in the context of Roseman’s obligation to provide an education program or activity free from sex discrimination.

- Roseman has established a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. This is described in the sections for these major stages in this policy. Additionally, in the preamble to the 2024 Title IX regulations, the Department of Education declined to require a recipient [i.e., Roseman] to delay its grievance procedures when there is an ongoing concurrent law enforcement proceeding and likewise declines to specifically prohibit Roseman from delaying a grievance proceeding due to a concurrent law enforcement proceeding. A variety of situations may necessitate the reasonable extension of timeframes on a case-by-case basis for good cause, including the possibility of a concurrent law enforcement proceeding. On the other hand, a concurrent law enforcement proceeding will not always constitute good cause for a delay, and the Department encourages Roseman whenever possible to apply their grievance procedures in a manner that avoids the need for an extension.
- Roseman will take reasonable steps to protect the privacy of the parties and witnesses during the pendency of Roseman's grievance procedures, provided these steps do not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.
- Roseman will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness.
- Roseman will exclude the following types of evidence, and questions seeking that evidence, as impermissible (i.e., must not be accessed or considered, except by Roseman to determine whether an exception in (i) through (iii) applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:
 - (i) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - (ii) A party’s or witness’s records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Roseman obtains that party’s or witness’s voluntary, written consent for use in the recipient’s grievance procedures; and
 - (iii) Evidence that relates to the complainant’s sexual interests or prior sexual conduct, unless evidence about the complainant’s prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant’s prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply

the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred;

The Department of Education noted in the preamble to the 2024 Title IX regulations that evidence related to sexual interests includes, but is not limited to, evidence like mode of dress, speech, and lifestyle.

- The Department of Education noted in the preamble to the 2024 Title IX regulations that it was appropriate for the Department to provide a recipient [i.e., Roseman] with discretion to use certain procedures for some, but not all, complaints of sex discrimination, provided that it informs its education community in advance of when certain procedures apply. This means that, if Roseman decided to do so, that it must provide information regarding what factors, if any, Roseman will consider when determining under what circumstances or to which types of sex discrimination complaints certain procedures apply (e.g., complaints involving certain forms of sex-based harassment, student-to-student sex-based harassment complaints, complaints with certain types of evidence). Although this provision permits Roseman to use different procedures for some, but not all, complaints of sex discrimination, Roseman is not permitted to use different procedures for different parties within a specific complaint investigation (e.g., use a live hearing with questioning by an advisor for assessing the credibility of one party and use live questioning during individual meetings to assess the credibility of the other party) absent a party's need for a disability-related accommodation or language access services.

Roseman will not adopt grievance procedures that apply to the resolution of some, but not all, complaints.

Written Notice of Allegations

Upon initiation of Roseman University's grievance procedures, Roseman must provide written notice of the allegations to the parties whose identities are known with sufficient time for the parties to prepare a response before any initial interview. The Title IX Coordinator will provide the written 'Notice of Allegations' to the parties who are known within five (5) business days of the Title IX Coordinator's initiation of the Roseman University's Title IX grievance procedures.

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause

The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

This notice must include:

- (1) Roseman's grievance procedures, and if applicable, any informal resolution process*
**Title IX does not require Roseman to offer an informal resolution process. However, Roseman is free to provide such a process in some circumstances, as long as Roseman complies with Title IX regulations.*
- (2) Sufficient information available at the time to allow the parties to respond to the allegations.
Sufficient information includes
 - (A) the identities of the parties involved in the incident(s),
 - (B) the conduct alleged to constitute sex discrimination,
 - (C) and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the recipient. Roseman provides access to a Title IX Investigative Report.
However, the parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party;
- (3) A statement that retaliation is prohibited; and
- (4) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence and if Roseman provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party; and
- (5) A statement that the respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures under this section and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Title IX Decisionmaker; and
- (6) They may have an advisor of their choice to serve in this role as defined by current Title IX regulations, and that the advisor may be, but is not required to be, an attorney; and
- (7) They are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence as set out in the 2024 Title IX regulations; and when Roseman provides access to a Title IX Investigative Report, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party; and
- (8) If the student's College's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedure the Title IX Coordinator will refer the matter to the student's College administration.

If, in the course of an investigation, Roseman decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice initially provided or that are included in a complaint that is consolidated, Roseman must provide notice of the additional allegations to the parties whose identities are known.

To the extent that Roseman has reasonable concerns for the safety of any person as a result of providing this notice, Roseman may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

Complaint Investigation

Roseman University must provide for adequate, reliable, and impartial investigation of complaints of sex-based harassment and throughout Roseman University's grievance procedures involving a student complainant or a student respondent. To do so, Roseman:

- (1) Provides, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate. The Title IX Investigator or Title IX Coordinator will provide written notice to a complainant, respondent and witness that they have at least three (3) business days to prepare a response before an interview with the Title IX Investigator.

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause

The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

- (2) Provides the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding; however, Roseman has established restrictions regarding the extent to which the advisor may participate in the grievance procedures, and these restrictions apply equally to the parties; Please see the restrictions on a party's advisor in the major stages of Roseman's Title IX grievance process in this policy.

A complainant and respondent have the right to have an advisor of their choice attend Title IX Interviews. Roseman's Title IX policy is that an advisor is not allowed to make oral statements, ask questions, or raise objections during a Title IX Interview. However, an advisor may request that the Title IX Investigator grant a reasonably brief break to provide advice to their advisee.

- 3) Provides the parties with the same opportunities, if any, to have persons other than the advisor of the parties' choice present during any meeting or proceeding; The Title IX Investigator will consider, on a case-by-case basis, requests from a party to allow persons other than the advisor of the parties' choice during any meeting or proceeding.
- (4) Has the discretion to determine whether the parties may present expert witnesses as long as the determination applies equally to the parties; Roseman can allow the parties to present expert witnesses as part of investigating and resolving complaints; Roseman will apply this decision equally to the parties.
- (5) Allows for the reasonable extension of timeframes on a case-by-case basis for good cause (please refer to Roseman's definition of 'Good Cause' in the Title IX Definition section in this policy) with written notice to the parties that includes the reason for the delay; and
- (6) Provides each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, consistent with current Title IX regulations in the following manner:
 - (A) Roseman provides an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same Title IX Investigative Report that accurately summarizes this evidence. When Roseman provides access to the Title IX Investigative Report, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.

(B) Roseman provides the parties with a reasonable opportunity to review and respond to the evidence or the Title IX Investigative Report described in the 2024 Title IX regulations prior to the determination whether sex-based harassment occurred. The specific details are provided in the 'Title IX Investigation' and 'Title IX Hearing' sections of this policy.

Roseman conducts a live hearing as part of its grievance procedures and provides the opportunity to review the evidence prior to the live hearing and during the live hearing. Under the 2024 Title IX regulations, Roseman is not permitted to redact information or evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible because such redaction infringes on the right of the parties (and their advisors) to receive access to the relevant and not otherwise impermissible evidence, as well as on the parties' due process rights.

(C) Roseman takes reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment are authorized

Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

(1) Process for questioning parties and witnesses

Roseman University provides a process that enables the Title IX Decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. Questioning of the parties and witnesses must take place consistent with the following provisions before determining whether sex-based harassment occurred:

Roseman conducts a live hearing as part of its grievance procedures. Roseman's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, only allows the Title IX Decisionmaker to ask such questions, and allows each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the Title IX Decisionmaker, subject to the requirements stated in the '(2) Procedures for the Title IX Decisionmaker to evaluate the questions and limitations on questions' section of this policy.

When Roseman conducts a live Title IX Hearing, the process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses under the 2024 Title IX regulations, including questions challenging credibility, only allows the Title IX Decisionmaker to ask such questions and only allows each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the Title IX Decisionmaker. Such questioning must never be conducted by a party personally.

The Department of Education noted in the preamble to the 2024 Title IX regulations that requiring the Title IX Decisionmaker to question a party or witness to adequately assess that party's or witness's credibility along with the other requirements in the current regulations, including an adequate, reliable, and impartial investigation of complaints, provides the respondent with a meaningful opportunity to be heard and respond and will produce reliable outcomes.

The Department of Education noted in the preamble to the 2024 Title IX regulations that a witness may decline to answer particular questions as part of the grievance procedures.

- (2) Procedures for the Title IX Decisionmaker to evaluate the questions and limitations on questions
The Title IX Decisionmaker must determine whether a proposed question is relevant and not otherwise impermissible under, prior to the question being posed, and must explain any decision to exclude a question as not relevant or otherwise impermissible.

If a Title IX Decisionmaker determines that a party's question is relevant and not otherwise impermissible, then the question must be asked except that Roseman must not permit questions that are unclear or harassing of the party or witness being questioned. The Title IX Decisionmaker must give a party an opportunity to clarify or revise a question that the Title IX Decisionmaker has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question to satisfy the terms of this paragraph, the question must be asked.

Questions that are unclear or harassing of the party or witness being questioned will not be permitted.

Roseman has adopted and applies other reasonable rules regarding decorum, and they apply equally to the parties. The details of Roseman's reasonable rules for decorum are noted in 'Title IX Investigation' and 'Title IX Hearing' sections of this policy.

- (3) Refusal to Respond to Questions and Inferences Based on Refusal to Respond to Questions
A Title IX Decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Title IX Decisionmaker must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

The Department of Education noted that on July 28, 2021, that a federal district court in Massachusetts issued a decision in Victim Rights Law Center et al. v. Cardona, No. 1:20-cv-11104, 2021 WL 3185743 (D. Mass. July 28, 2021). The Department's email explained that: In practical terms, a decision-maker at a postsecondary institution may now consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process.

For example, a decision-maker at a postsecondary institution may now consider statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation's relevance rules, regardless of whether the parties or witnesses submit to cross-examination at the live hearing. A decision-maker at a postsecondary institution may also consider police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.

Live Hearing

The 2024 Title IX regulations allow that Roseman's sex-based harassment grievance procedures may, but need not, provide for a live hearing. Roseman has chosen to conduct a live hearing; Roseman may conduct the live hearing with the parties physically present in the same geographic location. At Roseman's discretion it may, or upon the request of either party it must, conduct the live hearing with the parties physically present in separate locations, with technology enabling the Title IX Decisionmaker and parties to simultaneously see and hear the party or the witness while that person is speaking. Roseman must create an audio or audiovisual recording or transcript, of any live hearing and make it available to the parties for inspection and review.

Roseman has the Right to Adopt and Apply Reasonable Rules regarding Decorum, Provided They Apply Equally to the Parties.

The Title IX Decisionmaker has the right to impose reasonable rules of conduct and decorum on all parties participating in a Title IX Hearing, including reasonable time limits. The Title IX Decisionmaker must not allow the complainant, the respondent, and witnesses to be subjected to insulting treatment, including inappropriate comments, during a Title IX Hearing. The Title IX Decisionmaker has discretion to adopt rules governing the conduct of Title IX Hearings that could, for example, include rules about the timing and length of breaks requested by parties or advisors and rules forbidding participants from disturbing the Title IX Hearing by loudly conferring with each other. However, the parties have the right to reasonably consult with their advisor during a Title IX Hearing.

Determination Whether Sex-Based Harassment Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence under current Title IX regulations:

- (1) Roseman University must use the preponderance of the evidence/more likely than not standard of proof to determine whether sex-based discrimination occurred. Roseman's Title IX Decisionmaker must evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the Title IX Decisionmaker is not persuaded under the preponderance of the evidence standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the Title IX Decisionmaker must not determine that sex discrimination occurred.
- (2) Roseman must notify the parties simultaneously in writing of the determination whether sex-based discrimination occurred under the current Title IX regulations including
 - (A) A description of the alleged sex-based harassment
 - (B) Information about the policies and procedures that the postsecondary institution used to evaluate the allegations;
 - (C) The Title IX Decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
 - (D) When the Title IX Decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions that Roseman will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by Roseman to the complainant, and, to the extent appropriate, other students identified by Roseman to be experiencing the effects of the sex-based harassment; and
 - (E) Roseman's procedures for the complainant and respondent to appeal.

- (3) The determination regarding responsibility becomes final either on the date that Roseman provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

In the preamble to the 2024 Title IX regulations, the Department of Education clarified that the 2024 Title IX regulations do not require Roseman to provide information about the particular remedies offered in the written determination, only whether remedies will be provided, to protect the privacy of the complainant while preserving the overall fairness of giving both parties identical copies of the written determination simultaneously.

Following a Determination that Sex-Based Harassment Occurred, a Description of the Range of Supportive Measures Available to Complainants and Respondents

Please see the 'Definition' section in this policy for Roseman University's description of the range of possible supportive measures that could be offered to complainants and respondents.

In the preamble to the 2024 Title IX regulations, the Department noted that, when the elements of sex-based hostile environment are satisfied for an affected student, a recipient [i.e., Roseman] has an obligation to address that hostile environment, even if a particular respondent's conduct does not justify discipline. For example, in response to a hostile environment created by a series of incidents by different respondents, Roseman may offer supportive measures to the affected student or provide training for the broader school community.

Following a Determination that Sex-Based Harassment Occurred, a Description of the Range of the Possible Disciplinary Sanctions that the Roseman May Impose and Remedies that Roseman May Provide

Please see Roseman University's definition of 'Disciplinary Sanctions' in the 'Definition' section on this policy for the range of possible sanctions that could be imposed on a respondent.

Roseman may also provide remedies - please see Roseman's definition of 'Remedy' in the 'Definition' section of this policy for the range of possible remedies that Roseman could offer.

Appeals

Roseman University must offer the parties an appeal from a determination whether sex-based harassment occurred – please see the 'Appeals' section of this policy.

IX. Roseman University's Title IX Investigation of a Complaint

Introduction

When investigating a complaint and throughout the grievance process, Roseman University's Title IX personnel must:

- 1) Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on Roseman's Title IX personnel and not on the parties provided that Roseman cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless Title IX personnel obtain that party's voluntary, written consent to do so for a Title IX grievance process;
- 2) Provide an equal opportunity for the complainant and respondent to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
The Department of Education's 2024 Title IX regulations do not require a university to obtain evidence within a specific time frame.

The Department of Education in the preamble to the 2024 Title IX regulations noted that the regulations permitted character evidence, including character witnesses, that present relevant and not otherwise impermissible evidence. The requirement that evidence be "relevant," means that a party's ability to present character evidence (and Roseman's ability to consider such evidence) is limited to evidence that will aid the Title IX Decisionmaker in determining whether the alleged sex discrimination occurred. Whether a character witness is relevant will depend on the facts and circumstances of a particular complaint.

- 3) Not restrict the ability of either the complainant or respondent to discuss allegations under investigation or to gather and present relevant evidence;
- 4) Provide the complainant and respondent with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any Title IX meeting or grievance proceeding. A complainant and respondent have the right to have an advisor of their choice attend Title IX Interviews.

However, Roseman has the right to establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties. An advisor is not allowed to make oral statements, ask questions, or raise objections during a Title IX Interview. However, an advisor may request that the Title IX Investigator grant a reasonably brief break to provide advice to their advisee.

The Department of Education in the preamble to the 2024 Title IX regulations noted that it does not view an advisor with authority over another party as jeopardizing the reliability of the evidence presented or the integrity of the proceedings and the outcome.

The Department of Education in the preamble to the 2024 Title IX regulations noted that the Department does not require institutions to mandate advisor training, as this could limit

the parties' ability to select an advisor of their choice based on whether the advisor has received, or is able to receive, such training.

The Department of Education in the preamble to the 2024 Title IX regulations noted that these regulations do not require an institution to allow parties to be accompanied to meetings and proceedings by multiple advisors. The Department explained that requiring an institution to allow multiple advisors is likely to present scheduling challenges that could delay the proceedings, create a chilling effect on parties and witnesses due to the presence of additional individuals, and weaken privacy protections by disclosing sensitive information to additional individuals.

There are certain situations in which Roseman may be required to permit a party to have another person, in addition to an advisor, present during any meeting or proceeding to comply with another law. Under the ADA and Section 504, a postsecondary institution must ensure effective communication for persons with disabilities through the provision of auxiliary aids and services (e.g., providing a sign language interpreter for a party who is deaf or hard of hearing) and by making reasonable modifications to policies, practices, and procedures to avoid discrimination based on disability. A postsecondary institution may need to provide language assistance services under Title VI, such as translations or interpretation for persons with limited English proficiency.

An individual designated as having the status of 'witness' for the purpose of a specific Title IX Investigation, does not have the right to an advisor.

- 5) Provide, to a complainant, respondent, advisor and/or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate. The phrase "with sufficient time for the party to prepare" permits Roseman to exercise its discretion regarding how far in advance notice must be given.

The Title IX Coordinator or Title IX Investigator will provide a party with at least three (3) business days written notice of Title IX meetings and Title IX investigative interviews, so the party has time to prepare;

Notice of the Right to Delay or Extend Time Frame for the Complaint Process for Good Cause

The Title IX Coordinator or designee has the right to call for a temporary delay of the complaint process or the limited extension of time frames for the complaint process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

The Title IX Coordinator or Title IX Investigator will provide both parties with an equal opportunity to inspect and review the Title IX Investigative Report and, upon request, any evidence obtained as part of the investigation that is directly related to the allegations raised in a complaint. The Title IX Investigative Report is a formal document that fairly summarizes the relevant evidence that is completed by the Title IX Investigator.

The parties will have the opportunity to argue that evidence directly related to the allegations is in fact relevant.

Roseman has the discretion to determine the mode of providing access to the Title IX Investigative Report and/or to the underlying evidence, such as electronic copies, physical copies, or inspection of the institution's copies; however, Roseman must exercise this discretion in a manner that ensures that the parties have an equal opportunity to access the evidence.

Roseman provides the parties and their advisors with an equal opportunity to access the evidence. When a party exercises their right to choose an advisor, Roseman concludes that the party decided to receive assistance from that advisor during the grievance procedures, including giving the advisor access to evidence.

When Roseman provides the parties with access to the Title IX Investigative Report and then subsequently provides the parties with access to the underlying evidence in response to a party's request for the underlying evidence, the parties must have a reasonable opportunity to review and respond to the underlying evidence as well. The Department of Education noted in the preamble to the 2024 Title IX regulations noted that in exercising its discretion to determine reasonableness, a recipient [i.e., Roseman] must ensure that the parties are able to meaningfully review and respond to the evidence and/or the Title IX Investigative Report. The nature and volume of evidence varies greatly based on the allegations in a complaint, and a reasonable timeframe accommodates this variation. Parties may need more time to meaningfully review hundreds of pages of evidence and dozens of witness statements than they would need to review a much smaller evidentiary file. Roseman University holds that providing the parties this equal opportunity for review and inspection at least five (5) business days prior to a good faith estimate of the date of the conclusion of the investigation is a reasonable timeframe to allow each party to meaningfully respond to the evidence.

At least five (5) business days prior to a good faith estimate of the date of the completion of the Title IX Investigative Report, the Title IX Coordinator or Title IX Investigator must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or hard copy, and the parties will have at least ten (10) business days to submit a written response, which the Title IX Investigator will consider prior to the completion of the Title IX Investigative Report. Roseman must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross examination.

The Title IX Coordinator or Title IX Investigator will send the Title IX Investigative Report at least ten (10) business days prior to a Title IX Hearing to each party and the party's advisor, if any, in an electronic format or a hard copy, for their review and written response.

The Title IX Coordinator reserves the right to send written notice of the hearing date, time, location participants, and purpose at the same time as the Title IX Investigative Report. Therefore, as long as the Title IX Coordinator or Title IX Investigator has sent the Title IX Investigative Report at least ten (10) business days prior to a hearing to the complainant and

respondent, the Title IX Coordinator can provide written notice of the hearing within at least five (5) of the ten (10) business days the parties have to review the Title IX Investigative report.

If, in the course of an investigation, a Title IX Investigator decides to investigate allegations about the complainant or respondent that are not included in the Title IX Coordinator's initial Notice of Allegations, the Title IX Coordinator will provide notice of the additional allegations to the parties whose identities are known.

Permissible Evidence Allowed in a Title IX Investigation and Hearing

The Title IX Investigator may make police investigation files available to the complainant and respondent. If some of the evidence in the police investigation files is directly related to the allegations raised in a complaint, then the Title IX Investigator must provide that evidence to the complainant and respondent for their inspection and review.

Social media profiles, assuming that these social media profiles are lawfully obtained, may be included as part of the investigation.

Roseman University's Title IX policy does 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.

Roseman's Title IX grievance process does not allow for the admission of evidence obtained illegally. If any Title IX personnel know that a recording is unlawfully created under State law, then the Title IX personnel must not share a copy of such unlawful recording. The Department of Education does not require Roseman to disseminate any evidence that was illegally or unlawfully obtained.

The Department of Education noted in the preamble to the 2024 Title IX regulations that the Department does not prohibit an individual serving as both a party's advisor and a witness.

X. Roseman University's Title IX Hearing for a Complaint

Introduction

Roseman University Title IX Hearings are not open to the public. Only individuals determined by the Title IX Coordinator as being necessary to conduct the hearing will be granted access. A person assisting a party with a disability, or a language interpreter, may accompany a party to the hearing, in addition to the party's advisor, because the presence of a person assisting a party with a disability at the hearing is required by law and/or necessary to conduct the hearing. The Title IX Coordinator or designee can attend the hearing. While the Title IX Coordinator does not participate in the hearing and does not have the authority to make decisions during the hearing, the Title IX Decisionmaker and Title IX Coordinator have the right to consult with each other during the hearing.

At the request of either party, the Title IX Coordinator must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Title IX decisionmaker and parties to simultaneously see and hear the party or the witness answering questions. The Department of Education noted in the preamble to the 2024 regulations that the regulations only permit the parties to participate virtually if the Title IX Decisionmaker and parties can simultaneously see and hear the party or witness while that party is speaking; thus, telephonic testimony without video is not permitted.

The Title IX Decisionmaker presides over this hearing and has the right to impose reasonable rules of conduct and decorum on all parties participating in the hearing, including reasonable time limits. The Title IX Decisionmaker shall not allow the complainant, the respondent, and witnesses to be subjected to insulting treatment, including inappropriate comments, during the hearing.

The Title IX Decisionmaker has discretion to adopt rules governing the conduct of hearings that could, for example, include rules about the timing and length of breaks requested by parties or advisors and rules forbidding participants from disturbing the hearing by loudly conferring with each other. However, the parties have the right to reasonably consult with their advisor during a hearing.

The complainant and the respondent have the right, but are not required, to make opening and closing statements during the hearing. The Title IX Decisionmaker has the right to establish and enforce rules for time limits, relevance, and civility for opening and closing remarks. Advisors are not allowed to make opening and closing statements on a complainant's or respondent's behalf.

The complainant and the respondent have the right to raise an objection to the Title IX Decisionmaker to the relevance of evidence introduced during the hearing (i.e., they don't have to ask their advisor to raise an objection on their behalf). An advisor does not have the right to make objections on a complainant's or respondent's behalf. After a Title IX Decisionmaker rules on a complainant's or respondent's objection to the relevance of evidence during the hearing, the Title IX Decisionmaker's ruling is final. However, a complainant and/or respondent has the right to cite this decision if a party chooses to file an appeal with the Title IX Appeals Decisionmaker.

The Department of Education in the preamble to the 2024 Title IX regulations clarified that the requirement for a postsecondary institution to provide an advisor for a party who does not have one, who can ask questions on their behalf, only applies if a postsecondary institution is using a live hearing with questioning by an advisor. Therefore, since Roseman does not allow an advisor to cross

examine parties and witnesses during a Title IX Hearing, Roseman is not required to provide an advisor to a party.

Additionally, since Roseman does not allow an advisor to cross examine parties and witnesses during a Title IX Hearing, Roseman can place limitations on an advisor's ability to speak during the live hearing.

The Department of Education in the preamble to the 2024 Title IX regulations noted that the regulations require parties to submit questions to the Title IX Decisionmaker to determine whether a question is relevant and not otherwise impermissible; the regulations do not permit someone other than the Title IX Decisionmaker to make this determination.

Cross Examination

Cross Examination at the live hearing must be conducted directly, orally, and in real time by the Title IX Decisionmaker and by the complainant and a respondent submitting questions to the Title IX Decisionmaker to ask to the other party and to the complainant's and respondent's witnesses.

The Department of Education in the preamble to the 2024 Title IX regulations noted that the regulations are clear that Roseman can use a live hearing process that requires the parties to propose questions to be asked of any party or witness by the Title IX Decisionmaker. The parties are never permitted to personally cross-examine each other.

A Title IX Decisionmaker can conduct cross examination even when a party does not participate in a hearing resulting in consideration of the appearing party's statements but not the non-appearing party's statements (without any inference being drawn based on the non-appearance). Because the statements of the appearing party were tested via cross-examination, a fair, reliable outcome can result in such a situation. A party retains their right to have their advisor pose questions to the Title IX Decisionmaker on the party's behalf at the live hearing if/when the party chooses not to appear at the hearing. If a party refuses to respond to relevant and not otherwise impermissible questions by not attending the hearing, however, a Title IX Decisionmaker may choose to place less or no weight on the statements made by that party. The Title IX Decisionmaker must not, however, draw an inference about whether sex-based harassment occurred based solely on a party's refusal to respond.

The Title IX Decisionmaker may adopt rules of order or decorum to forbid badgering a complainant, respondent or witness, and may fairly deem repetition of the same question to be irrelevant.

When the manner in which a party, their advisor, or a witness attempt to engage in harassing, intimidating, or abusive (for example, a party or their advisor yells, screams, or physically "leans in" to the other party's or witness's personal space), the Title IX Decisionmaker may appropriately, evenhandedly enforce rules of decorum.

If a complainant's or respondent's advisor of choice refuses to comply with a Title IX Decisionmaker's rules of decorum (for example, by insisting on yelling at the other party or their witness), the Title IX Decisionmaker may require that party to use a different advisor.

Only relevant questions may be asked of a party or witness. 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.

Before a complainant, respondent, or witness answers a question, the Title IX Decisionmaker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The requirement for an explanation does not require the Title IX Decisionmaker to give a lengthy or complicated explanation; it is sufficient, for example, for the Title IX Decisionmaker to explain that a question is irrelevant because the question calls for prior sexual behavior information without meeting one of the two exceptions, or because the question asks about a detail that is not probative of any material fact concerning the allegations. No lengthy or complicated exposition is required to satisfy this provision.

A question would be unclear if it is "vague or ambiguous such that it would be difficult for the Title IX Decisionmaker or party being asked to answer the question or discern what the question is about. For example, some of the key words in the question may have more than one meaning, or the period to which the question refers may be unclear.

Roseman does not permit questions that are unclear or harassing of the party or witness being questioned. Whether other questions about a party's prior sexual conduct are harassing is a fact-specific determination that depends on the content of the question, the manner it is asked, and the purpose for which it is offered. The Department of Education in the preamble to the 2024 Title IX regulations noted that the Title IX Decisionmaker is not required to explain the rationale for excluding questions that are unclear or harassing.

A complainant, respondent or advisor does not have the right to object to the Title IX Decisionmaker's determination of the relevance of a question during the hearing. However, a complainant and/or respondent has the right to cite this decision if a party chooses to file an appeal with the Title IX Appeals Decisionmaker.

The credibility of any party, as well as ultimate conclusions about responsibility for sexual harassment, must not be prejudged and must be based on objective evaluation of the relevant evidence in a particular case.

The Department of Education's Title IX regulations regarding the hearing do not require that any party, including a complainant, must recall details with certain levels of specificity; rather, a party's or witness's answers to cross examination questions can and should be evaluated by a Title IX Decisionmaker in context, including taking into account that a party may experience stress while trying to answer questions.

Hearing Outcome

The Department of Education in the preamble to the 2024 Title IX regulations noted that the regulations give the Title IX Decisionmaker the flexibility to decide how to handle statements made by a party who refuses to respond to relevant and not impermissible questions applies to situations in which a party or witness declines to participate entirely in the Title IX grievance procedures. The term “statements” applies to any statement of a party or witness and “has its ordinary meaning but would not include evidence (such as videos) that do not constitute a person’s intent to make factual assertions, or to the extent that such evidence does not contain a person’s statements.” A Title IX Decisionmaker may decide, based on the totality of the circumstances, to give full weight to statements made by a party or witness who refused to respond to a question, and a Title IX Decisionmaker is not required to exclude such statements. However, the Department clarified that it is impermissible to draw an adverse inference about whether sex-based harassment occurred based only on a respondent’s refusal to respond to questions, including in situations in which a respondent may face future criminal proceedings,

It also applies to situations in which a party or witness otherwise participates in the Title IX grievance procedures but declines to respond to some or all questions.

As part of the evaluation and weighing of the evidence, a Title IX Decisionmaker could consider the reasons why a party or witness refused to answer questions when determining what weight to assign to that party or witness’s statements. For example, the Title IX Decisionmaker could consider whether the party or witness intentionally refused to answer any questions so that earlier statements made by that party or witness could not be tested during questioning, or whether the party or witness answered nearly all relevant questions and offered a reasonable justification for not responding to a small number of questions.

Under the 2024 Title IX regulations, the Title IX Decisionmaker has discretion to consider whether the number of questions the party or witness refused to respond to should be taken into consideration when determining the weight to give that party’s statements. The Title IX Decisionmaker also has discretion to determine whether the party or witness intentionally refused to respond to questions or did not refuse but simply could not recall details for a variety of valid reasons.

The 2024 Title IX regulations provide postsecondary institutions with the necessary flexibility and discretion to rely on their expertise in evaluating and weighing evidence in responding to complaints of sex-based harassment, while still enabling them to address situations in which a party or witness attempts to manipulate the process by presenting inaccurate testimony and refusing to answer questions that probe at those inaccuracies.

A Title IX Decisionmaker cannot rely on evidence to which the parties were not given access.

The Title IX Decisionmaker will submit the formal ‘Written Determination’ of the hearing’s results to the complainant, the respondent and the Title IX Coordinator simultaneously within five (5) business days after the Title IX Decisionmaker has adjourned the hearing. The Title IX Decisionmaker has the right to extend this deadline for good cause upon written notice to the respondent and complainant.

A determination of non-responsibility does not necessarily mean that the complainant's allegations were false or unfounded but rather could mean that there was not sufficient evidence to find the respondent responsible.

A determination of non-responsibility is only with regard to that conduct for the purposes of under Title IX; such a determination or dismissal does not preclude action under another provision of the student's academic program's code of conduct or employee/faculty code of conduct.

The Title IX Decisionmaker is responsible for determining supportive measures, remedies, and disciplinary sanctions on a respondent when the Title IX Decisionmaker has determined that the respondent is responsible for violating Roseman's Title IX policy.

Please see the 'Definition' section of this policy for Roseman's description of the range of possible remedies and disciplinary sanctions that could be imposed on a respondent and remedies that could be provided to complainants.

The Title IX Coordinator or Title IX Decisionmaker has the right to keep supportive measures in place even after a determination that a respondent is not responsible, so complainants do not necessarily need to be left in constant contact with the respondent, regardless of the result of Roseman's Title IX grievance process.

The determination regarding responsibility becomes final either on:

- 1) the date that the Title IX Appeals Decisionmaker simultaneously provided the parties with the written determination of the result of any appeal and the rationale for the result, if an appeal is filed,

or

- 2) if no party appeals, the date on which an appeal will no longer be considered timely. The Clery Act requires, and FERPA permits, Roseman to inform the complainant of the institution's final determination and any disciplinary sanctions imposed on the respondent in sex-based harassment cases (as opposed to other forms of sex discrimination covered by Title IX), not just those sanctions that directly relate to the complainant. The complainant will know whether the respondent was expelled, or whether the respondent was suspended for a period of time, as such information will inevitably impact the complainant.

XI. Appeals

The complainant and respondent have a right to submit a written appeal of the Title IX Coordinator's decision to dismiss a complaint or the Title IX Decisionmaker's determination of responsibility to the Title IX Appeals Decisionmaker. The complainant and/or respondent must submit a written appeal to the Title IX Appeals Decisionmaker within five (5) business days after the Title IX Coordinator provided the parties were with written notification to dismiss the complaint or the Title IX Decisionmaker provided each party with the Written Determination.

The Title IX Coordinator or designee or the Title IX Appeals Decisionmaker will consider a temporary delay or limited extension of time frames in the appeals process for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action.

Roseman does not allow the opportunity for the parties to appeal a remedy or sanction.

Dismissal of a Complaint

If the Dismissal of a Complaint is Appealed, Roseman University Must:

- (1) Notify the parties of any appeal, including notice of the allegations if notice was not previously provided to the respondent;
- (2) Implement appeal procedures equally for the parties;
- (3) Ensure that the Title IX Appeals Decisionmaker for the appeal did not take part in an investigation of the allegations or did not take part in the dismissal of the complaint;
- (4) Ensure that the Title IX Appeals decisionmaker for the appeal has been trained
- (5) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the parties of the result of the appeal and the rationale for the result.

Dismissals May be Appealed on the Following Bases:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred, or dismissal was made; and
- (3) The Title IX Coordinator or designee had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If Roseman Dismisses a Complaint, Roseman Must

- (1) Offer supportive measures to the complainant as appropriate;
- (2) Offer supportive measures to the respondent as appropriate;
- (3) Require Roseman's Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within Roseman's education program or activity under the 2024 Title IX regulations.

Sex Discrimination

If a Party Appeals a Determination Whether Sex Discrimination Occurred Roseman University Must:

- (1) Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- (2) Implement appeal procedures equally for the parties;
- (3) Ensure that the Title IX Appeals Decisionmaker for the appeal did not take part in an investigation of the allegations or take part in decisions related to the allegation;
- (4) Ensure that the Title IX Appeals Decisionmaker has been trained consistent with the 2024 Title IX regulations;
- (5) Communicate to the parties in writing that Roseman will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the parties in writing of the result of the appeal and the rationale for the result

A Determination of Sex Discrimination May be Appealed on the Following Bases:

Roseman University offers the following process for appeals from a determination whether sex discrimination occurred on the following bases:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred, or dismissal was made; and
- (3) The Title IX Coordinator, Title IX Investigator, or Title IX Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

Roseman offers the parties an appeal process that, at a minimum, is the same as it offers in all other comparable Roseman proceedings, including proceedings relating to other discrimination complaints.

Sex-Based Harassment

If a Party Appeals a Determination Whether Sex-Based Harassment Occurred Roseman University Must:

- (1) Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- (2) Implement appeal procedures equally for the parties;
- (3) Ensure that the Title IX Appeals Decisionmaker for the appeal did not take part in an investigation of the allegations or take part in the dismissal of the complaint;
- (4) Ensure that the Title IX Appeals Decisionmaker has been trained consistent with the 2024 Title IX regulations;
- (5) Communicate to the parties in writing that Roseman will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- (6) Notify the parties in writing of the result of the appeal and the rationale for the result.

A Determination of Sex-Based Harassment May be Appealed on the Following Bases:

Roseman University must offer the parties an appeal from a determination whether sex-based harassment occurred, and from Roseman's dismissal of a complaint or any allegations therein, on the following bases:

- (1) Procedural irregularity that would change the outcome;
- (2) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred, or dismissal was made; and
- (3) The Title IX Coordinator, Title IX Investigator, or Title IX Decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

XII. Retaliation

Roseman University prohibits retaliation, including peer retaliation, in its education program or activity. When Roseman has information about conduct that reasonably may constitute retaliation under the 2024 Title IX regulations Roseman is obligated to comply with these regulations. Upon receiving a complaint alleging retaliation, Roseman must initiate its grievance procedures or, as appropriate, an informal resolution process under current Title IX regulations.

Please see the definition of the term ‘Retaliation’ in Roseman’s Title IX policy ‘Definition’ section.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that depending on the facts, making adverse assessments or hiring and promotional decisions; lowering a student’s grades, making threats or disclosing confidential information on social media; or excluding someone from an education program could constitute intimidation, threats, coercion, or discrimination that, if taken for the purpose of interfering with a person’s Title IX rights or because of a person’s participation in Title IX grievance procedures, would constitute retaliation under the regulations. Disclosure of certain information, including, for example, information about a person’s LGBTQI+ status or pregnancy or related condition, can be harmful and chill reporting of incidents of discrimination. Deliberately disclosing or threatening to disclose such confidential information about a person may violate the prohibition on retaliation, including peer retaliation, when they are taken for the purpose of interfering with a person’s Title IX rights or because of a person’s participation in Title IX grievance procedures. Whether a particular action is adverse in any given case would require a fact-specific analysis of how the action would affect a reasonable person in the complainant’s position.

Roseman may not retaliate against a student (including an actual or potential complainant, respondent, or witness) for refusing to participate in Title IX grievance procedures.

Roseman may, however, investigate and resolve a complaint consistent with current Title IX regulations, despite a student respondent’s refusal to participate. In such a circumstance, imposing disciplinary sanctions on a respondent because Roseman determined, following the conclusion of its grievance procedures, that the respondent violated Roseman’s prohibition on sex discrimination, is not itself retaliation.

A party’s right to speak to witnesses is subject to the requirement that Roseman prohibits retaliation, which is defined as “intimidation, threats, coercion, or discrimination” against any individual, including witnesses, for the purpose of interfering with any right or privilege under Title IX or the regulations or because that individual participated in any way in the grievance procedures.

In the preamble to the 2024 Title IX regulations, the Department of Education noted that merely criticizing a recipient’s [i.e., Roseman’s] Title IX policies or practices or an individual’s decision to participate in a Title IX grievance procedure would not alone constitute retaliation.

XIII. Recordkeeping

Roseman University's Title IX Coordinator must maintain for a period of at least seven (7) years:

- (1) For each complaint of sex discrimination, records documenting the informal resolution process or the grievance procedures under the 2024 Title IX regulations, and the resulting outcome.
- (2) For each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination under the 2024 Title IX regulations, including notifications under the 2024 Title IX regulations, records documenting the actions Roseman took to meet its obligations under the 2024 Title IX regulations.
- (3) All materials used to provide Title IX training. Roseman must make these training materials available upon request for inspection by members of the public.

XIV. Training

Roseman University must ensure that the persons described in the 2024 Title IX regulations receive training related to their duties under Title IX promptly upon hiring or change of position that alters their duties under Title IX, and annually thereafter. This training must not rely on sex stereotypes.

Roseman must train all employees on:

- (1) Roseman’s obligation to address sex discrimination in its education program or activity;
- (2) The scope of conduct that constitutes sex discrimination under the 2024 Title IX regulations, including the definition of sex-based harassment; and
- (3) All applicable notification and information requirements under the 2024 Title IX regulations.

With regards to training for pregnancy and pregnancy related conditions, in the preamble to the 2024 Title IX regulations, the Department of Education noted that for most employees, the training will consist of how to:

- (1) promptly notify a student who informs them of their pregnancy or related conditions, or a person who has a legal right to act on behalf of a student and who so informs them, that the Title IX Coordinator can take specific actions to prevent sex discrimination and ensure the student’s equal access to the education program or activity, and
- (2) share the Title IX Coordinator’s contact information.

Roseman must train Title IX Investigators, Title IX Decisionmakers, and other persons who are responsible for implementing the Roseman’s grievance procedures or have the authority to modify or terminate supportive measures.

In addition to the training requirements for all Roseman employees, all Title IX Investigators, Title IX Decisionmakers, and other persons who are responsible for implementing Roseman’s Title IX grievance procedures or have the authority to modify or terminate supportive measures under the 2024 Title IX regulations must be trained on the following topics to the extent related to their responsibilities:

- (1) Roseman’s obligations under the 2024 Title IX regulations;
- (2) Roseman’s grievance procedures under the 2024 Title IX regulations;
- (3) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- (4) The meaning and application of the term “relevant” in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under the 2024 Title IX regulations.

In addition to the Title IX training requirements for all employees, all Title IX facilitators of an informal resolution process under the 2024 Title IX regulations must be trained on the rules and practices associated with Roseman’s Title IX informal resolution process and on how to serve impartially, including by avoiding conflicts of interest and bias.

In addition to the Title IX training requirements for all employees, Roseman must train its Title Coordinator and designees on their specific responsibilities under the 2024 Title IX regulations, Roseman’s recordkeeping system, and any other training necessary to coordinate Roseman’s compliance with Title IX.

In the preamble to the 2024 Title IX regulations, the Department noted that it declined to require certain training practices or techniques, aside from the requirements of the current regulations, to allow a recipient [i.e., Roseman] the flexibility to determine how to meet training requirements in a manner that best fits its unique educational community.

Roseman must make these Title IX training materials available upon request for inspection by members of the public.

XV. Roseman University’s Responsibilities Regarding Parental, Family, or Marital status; Pregnancy or Related Conditions

Introduction

The Department of Education also noted in the preamble to the 2024 Title IX regulations that Title IX regulations have included nondiscrimination protection for “termination of pregnancy” since their initial promulgation in 1975, which prohibited discrimination on the basis of “pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom[.]” Consistent with the inclusion of the text in the original Title IX regulations in 1975, the Department interprets “termination of pregnancy” to mean the end of pregnancy in any manner, including, miscarriage, stillbirth, or abortion.

The pregnancy-related protections of the 2024 Title IX regulations protect all students, employees, and applicants for admission or employment from discrimination on the basis of pregnancy or related conditions. In the preamble to the 2024 Title IX regulations the Department of Education acknowledged that there are many different medical conditions that are related to pregnancy, childbirth, termination of pregnancy, or lactation. The Department acknowledged that such conditions include but are not limited to pregnancy-related fatigue, dehydration (or the need for increased water intake), nausea (or morning sickness), increased body temperature, anemia, and bladder dysfunction; gestational diabetes; preeclampsia; hyperemesis gravidarum (i.e., severe nausea and vomiting); pregnancy-induced hypertension (high blood pressure); infertility; recovery from childbirth, miscarriage, or abortion; ectopic pregnancy; prenatal or postpartum depression; and lactation conditions such as swelling or leaking of breast tissue or mastitis.

The Department of Education in the preamble to the 2024 Title IX regulations noted that a pregnancy-related medical condition does not have to be a disability as defined by the ADA for it to fall within the definition of “pregnancy or related conditions” or for a student to qualify for a reasonable modification. The Department noted in this preamble that some conditions or complications related to pregnancy might qualify as disabilities under Section 504 and the ADA, but pregnancy itself is not a disability.

Roseman must not discriminate in its education program or activity against any student based on the student’s current, potential, or past pregnancy or related conditions. Roseman does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided that Roseman ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions. The Department of Education in the preamble to the 2024 Title IX regulations gave the example that if a professor refuses to allow a student to participate in a clinical course based on the mistaken belief that the student is pregnant, that professor may be discriminating against a student based on sex and denying the student access to the institution’s education program or activity based on the stereotype that a pregnant student is not physically capable of participating in the course or will not be as dedicated due to the demands of pregnancy. The Department in this preamble gave another example of a professor who learns a student recently terminated the student’s pregnancy and refuses to allow the student into a field work course because the professor believes that students who recently terminated a pregnancy are unable to complete field work would be discriminating on the basis of sex stereotypes

Roseman must not discriminate against any employee or applicant for employment on the basis of current, potential, or past pregnancy or related conditions.

In the case of an employee with insufficient leave or accrued employment time to qualify for a voluntary a leave of absence, Roseman must treat pregnancy or related conditions as a justification for a voluntary leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

Comparable Treatment to Other Temporary Medical Conditions

To the extent consistent with the 2024 Title IX regulations, Roseman University must treat pregnancy or related conditions in the same manner and under the same policies as any other temporary medical conditions with respect to any medical or hospital benefit, service, plan, or policy Roseman administers, operates, offers, or participates in with respect to students admitted to Roseman's education program or activity.

Roseman must treat pregnancy or related conditions as any other temporary medical conditions for all job-related purposes, including commencement, duration and extensions of leave; payment of disability income; accrual of seniority and any other benefit or service; and reinstatement; and under any fringe benefit offered to employees by virtue of employment.

Responsibility to Promptly and Effectively Prevent Sex Discrimination

Roseman University must take specific actions under Title IX to promptly and effectively prevent sex discrimination and ensure equal access to Roseman's education program or activity once the student, or a person who has a legal right to act on behalf of the student, notifies the Title IX Coordinator of the student's pregnancy or related conditions. The Title IX Coordinator must coordinate these actions. Roseman must inform the student, and if applicable, the person who notified the Title IX Coordinator of the student's pregnancy or related conditions and has a legal right to act on behalf of the student, of Roseman's obligations as defined by Title IX.

Roseman Employee's Responsibility to Provide Title IX Coordinator Contact Information

Roseman must ensure that when a student, or a person who has a legal right to act on behalf of the student, informs any Roseman employee of the student's pregnancy or related conditions, unless the Roseman employee reasonably believes that the Title IX Coordinator has been notified, the Roseman employee promptly provides that person with Roseman's Title IX Coordinator's contact information and informs that person that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student's equal access to the recipient's education program or activity.

The Department of Education in the preamble to the 2024 Title IX regulations noted that once information about the Title IX Coordinator's contact information and coordination duties is provided, a student or the student's legal representative should have the choice to disclose pregnancy or related conditions to a recipient through the Title IX Coordinator as they feel

appropriate. Absent information about conduct that reasonably may constitute sex discrimination (e.g., the student telling the employee that not only is the student pregnant, but that the student has been prohibited from participating school activity due to the pregnancy)—in which case notification obligations are governed by the 2024 Title IX regulations—employees are not required to directly inform the Title IX Coordinator of a student’s pregnancy or related conditions.

The Department of Education in the preamble to the 2024 Title IX regulations noted that a student or a person who has a legal right to act on behalf of the student “informs” an employee of a student’s pregnancy or related conditions when the student or such person tells the employee that the student is pregnant or experiencing pregnancy-related conditions, either verbally or in writing. For example, if a student tells a faculty member, “I am pregnant and will be late to class on Wednesday due to a doctor’s appointment,” the student has informed the faculty member of the pregnancy and the faculty member’s obligations under the current Title IX regulations are triggered. However, if the faculty member merely overhears one student making the same statement to another, the student has not directly informed the faculty member, so the faculty member is not required to act under the provision.

The Department of Education in the preamble to the 2024 Title IX regulations noted that if an employee is unaware whether the Title IX Coordinator has been notified at the moment the student or their legal representative informs the employee of the student’s pregnancy or related conditions, the employee’s only responsibility under the provision is to provide the student with the required information regarding the Title IX Coordinator. For example, if a student tells a faculty member “I’m letting you know I’m pregnant” and nothing more, the employee must provide the necessary information under the provision—specifically, the Title IX Coordinator’s contact information and that the Title IX Coordinator can coordinate specific actions to prevent sex discrimination and ensure the student’s equal access to Roseman’s education program or activity.

Reasonable Modifications

(1) Roseman University must make reasonable modifications to Roseman’s policies, practices, or procedures as necessary to prevent sex discrimination and ensure equal access to Roseman’s education program or activity. Each reasonable modification must be based on the student’s individualized needs. In determining what modifications are required under the 2024 Title IX regulations, Roseman must consult with the student. A modification that Roseman can demonstrate that would fundamentally alter the nature of its education program or activity is not a reasonable modification.

Identifying a reasonable modification will be a collaborative effort between the student and the Roseman, but it will be Roseman’s duty to offer any reasonable modifications, and—if accepted by the student—promptly and effectively implement them. The Department of Education in the preamble to the 2024 Title IX regulations noted that providing a student who must be intermittently absent from class to attend morning prenatal appointments with the opportunity to make up lost class time without penalty was an example of a reasonable modification recognized by case law (as long as this arrangement would be appropriate to the pregnant student’s individualized need and would not fundamentally alter the nature of the recipient’s [i.e., Roseman’s] education program or activity).

A student's options for reasonable modifications because of pregnancy or related conditions will not be limited or defined by the fact that Roseman has never had occasion to provide a particular modification to any other student in the past.

The Department of Education in the preamble to the 2024 Title IX regulations noted that the determination whether a modification is reasonable will necessarily be a fact-specific inquiry that considers, for example, whether the student has a preferred modification, whether alternative modifications exist, and the feasibility and effectiveness of the modification in addressing the student's specific needs. The Department noted that courts have found a requested modification to fundamentally alter a recipient's [i.e., Roseman's] education program or activity if it would completely waive requirements that demonstrate mastery of a particular field of study were unreasonable and that courts have found that modifications that would completely waive requirements that demonstrate academic competency, such as clinical components or examinations, were unreasonable.

In contrast, the Department noted that courts have indicated that a school may reasonably accommodate a student with a disability by allowing a student to defer or make up an examination at a later time, permitting a student to repeat one or more classes, providing a student with tutoring, taped lectures, and the like, allowing a student to take untimed examinations, modifying a student's seating arrangement, or reducing or modifying a student's duties in a required clinical course, or deferring to another semester completion of a program's clinical requirement.

- (2) The student has discretion to accept or decline each reasonable modification offered by Roseman. If a student accepts Roseman's offered reasonable modification, Roseman must implement it. A student can decide whether to accept the reasonable modification offered by Roseman, request an alternative reasonable modification, or remain in their program under the status quo.

There is no prohibition on a student returning to the Title IX Coordinator after Roseman has taken initial steps if a further need emerges related to pregnancy or related conditions.

The Department of Education in the preamble to the 2024 Title IX regulations noted that if a student declines an offered reasonable modification that is based on the student's individualized needs and that would prevent sex discrimination and ensure equal access, Roseman is not required to determine whether there are other reasonable modifications based on that specific need, even if there are other reasonable modifications that could be offered.

- (3) Reasonable modifications may include, but are not limited to, breaks during class to express breast milk, breastfeed, or attend to health needs associated with pregnancy or related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; access to online or homebound education; changes in schedule or course sequence; extensions of time for coursework and rescheduling of tests and examinations; allowing a student to sit or stand, or carry or keep water nearby; counseling; changes in physical space or supplies (for example, access to a larger desk or a footrest); elevator access; or other changes to policies, practices, or procedures.

Voluntary Leaves of Absence

Roseman University must allow the student to voluntarily take a leave of absence from Roseman's education program or activity to cover, at minimum, the period of time deemed medically necessary by the student's licensed healthcare provider. To the extent that a student qualifies for leave under a leave policy maintained by Roseman that allows a greater period of time than the medically necessary period, Roseman must permit the student to take voluntary leave under that policy instead if the student so chooses. When the student returns to Roseman's education program or activity, the student must be reinstated to the academic status and as practicable, to the extracurricular status that the student held when the voluntary leave began.

Voluntary Access to Separate and Comparable Portion of Program or Activity

Roseman University must allow the student to voluntarily access any separate and comparable portion of Roseman's education program or activity as allowed by Title IX.

Lactation Space

Roseman University must ensure that a student and an employee can access a lactation space, which must be a space other than a bathroom, that is clean, shielded from view, free from intrusion from others, and may be used by a student or by an employee for expressing breast milk or breastfeeding as needed. Roseman must provide reasonable break time for an employee to express breast milk or breastfeed as needed. The Department noted in the preamble to the 2024 Title IX regulations that there may be Federal, State, or local laws or regulations that contain more specific requirements regarding lactation spaces for employees, and the Department does not intend for these regulations to preempt those laws or regulations to the extent they provide employees with more rights regarding lactation spaces.

In the preamble to the 2024 Title IX regulations the Department of Education noted that for the provision of lactation space to be effective, a recipient [i.e., Roseman] must ensure not only that an appropriate lactation space is available but also that it is accessible to the employees and students who need it in the reasonable break time they must use it. If the lactation space is so far from an employee's workstation, employee's office, or the employee's or student's classroom that the employee or student cannot reasonably get there and back, breastfeed or pump, and store their expressed milk in the time given, the Department would not consider the space to be accessible to the employee or student.

In the preamble to the 2024 Title IX regulations the Department of Education noted that there is no requirement that a lactation space be a particular size or shape or include particular structural features. Accordingly, Roseman University is not required to construct new lactation spaces if an existing space otherwise meets the requirements. Additionally, nothing in the 2024 Title IX regulations prohibits Roseman from allowing a student who is lactating to access an existing employee lactation space.

Notes on Not Requiring Supporting Documentation and Certification to Participate

Roseman University must not require supporting documentation under Title IX unless the documentation is necessary and reasonable for Roseman to determine the reasonable modifications to make or whether to take additional specific actions allowed by Title IX regulations. In the preamble to the 2024 Title IX regulations the Department of Education noted that Roseman may simply discuss

with the student the nature of the pregnancy-related need and the desired modification or action without requesting supporting documentation.

In the preamble to the 2024 Title IX regulations the Department of Education provided the example that if a student requests a reasonable modification in the form of access to online or homebound education to follow the student's healthcare provider's recommendation of bed rest during the student's pregnancy, it may be necessary and reasonable under the circumstances for a recipient [i.e., Roseman] to require documentation from the student's healthcare provider to support a student's reasonable modification request (i.e., that the student is or will be on medically ordered bed rest during their pregnancy).

Examples of situations when requiring supporting documentation is not necessary and reasonable include, but are not limited to, when the student's need for a specific action under Title IX regulations are obvious, such as when a student who is pregnant needs a bigger uniform; when the student has previously provided Roseman with sufficient supporting documentation; when the reasonable modification because of pregnancy or related conditions at issue is allowing a student to carry or keep water nearby and drink, use a bigger desk, sit or stand, or take breaks to eat, drink, or use the restroom; when the student has lactation needs; or when the specific action is available to students for reasons other than pregnancy or related conditions without submitting supporting documentation.

Roseman must not require a student who is pregnant or has related conditions to provide certification from a healthcare provider or any other person that the student is physically able to participate in Roseman's class, program, or extracurricular activity unless:

- (1) The certified level of physical ability or health is necessary for participation in the class, program, or extracurricular activity;
- (2) Roseman requires such certification of all students participating in the class, program, or extracurricular activity; and
- (3) The information obtained is not used as a basis for discrimination prohibited by Title IX.

XVI. Roseman University’s Title IX and Student Pregnancy and Pregnancy-Related Conditions Policy

Initially Approved by Administrative Council on March 13, 2023

Revised July 15, 2024

Effective August 1, 2024

Introduction

Roseman University complies with Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 et seq., Title IX is a Federal civil rights law that prohibits discrimination on the basis of sex—including pregnancy and pregnancy related conditions—in educational programs and activities. The Department of Education’s Title IX regulations prohibit discrimination based on pregnancy and related conditions in institutions that receive Federal funds. Title IX protects students and employees from discrimination based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom. In October 2022, the Department of Education, Office for Civil Rights noted that, “Schools must treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom the same as any other temporary disability with respect to any hospital or medical benefit, service, plan, or policy for students. 34 C.F.R. § 106.40(b)(4).”

Roseman is committed to creating and maintaining an inclusive and accessible environment for students who are pregnant or who have related conditions. Students must submit requests for consideration of pregnancy-related needs to the Roseman’s Title IX Coordinator. Roseman will make reasonable adjustments/accommodations for childbirth, false pregnancy, termination of pregnancy, and recovery therefrom. These protections extend to Roseman students its admissions process, its educational programs, or activities, and in extracurricular activities controlled by the university. However, adjustments/accommodations cannot alter the essential functions of the student’s academic program. The Title IX Coordinator will contact the designated administrator in the student’s college to determine if the designated college administrator considers the requested adjustment/ accommodation to be a fundamental alteration of the student’s academic program. When necessary, the Title IX Coordinator will facilitate an interactive process between the student and the student’s college to determine the final adjustment/accommodation that college faculty/administration will provide to the student.

Students and/or faculty with questions about the adjustment/ accommodation request and/or complaint and grievance process should contact Roseman’s Title IX Coordinator at the address, email, or phone number listed in this policy below.

The following information highlights what students who are pregnant or who have related conditions should know about their rights under Roseman’s Title IX policy.

Classes and University/College-Related Activities

- Students have the right to continue to participate in classes and extracurricular activities sponsored by or affiliated with Roseman University even when they are pregnant or have related conditions. Students can still participate in class, student organizations, honor societies, student leadership opportunities, and other activities sponsored by or affiliated with Roseman. Students who are pregnant or who have a related condition are not required to submit a clinician's note to administration unless their college requires a clinician's note from all students who have a physical or mental condition. A college will not require a clinician's note from a student after being hospitalized for childbirth unless it requires a clinician's note from all students hospitalized for other conditions.
- Students have the right to receive reasonable adjustments/ accommodations, like an adjustable chair or chair not fixed to a table/desk, elevator access, or allowing frequent trips to the restroom, when necessary, because of their pregnancy or related condition.

Excused Absences and Medical Leave

- Students have the right to an excused absence due to pregnancy or childbirth for as long as their clinician concluded it is necessary.
- Students are allowed to return to the same academic and extracurricular status as before their medical leave began, which includes the opportunity to make up any work missed while not in class.
- University and College administration are committed to assuring that faculty members understand the Title IX requirements related to an excused absence/medical leave. A faculty member may not refuse to allow a student to submit work after a missed deadline because of pregnancy or childbirth. If a grade is based in part on class participation or attendance and a student missed class because of pregnancy or childbirth, the student will be allowed to make up the participation or attendance credits that the student did not have the chance to earn.
- Roseman's Title IX Coordinator is responsible for assuring that students who are pregnant or who have related conditions receive services equivalent to the services a college provides to students with temporary or permanent medical conditions.

Harassment

Roseman University is committed to protecting students from harassment based on sex, including harassment, because of pregnancy or pregnancy related conditions. Comments that could constitute prohibited harassment include making sexual comments or jokes about pregnancy, stating sexually charged names, spreading rumors about sexual activity, and making sexual propositions or gestures, if the comments are sufficiently serious that it interferes with a student's ability to benefit from or participate in the student's University's/College's program.

Policies and Procedures

Students with questions about requesting adjustment(s)/accommodation(s) for pregnancy or related conditions must contact Roseman University's Title IX Coordinator, Dr. Michael DeYoung at mdeyoung@roseman.edu or (702) 968-2006. The Title IX Coordinator's responsibilities include overseeing complaints of discrimination against students who are pregnant and working with the

student and the student's college to arrange for the student who is pregnant to receive reasonable adjustments/accommodations.

Examples of Adjustments/Accommodations for Students who are Pregnant or who have Related Conditions include, but are not limited to:

- Reserved seating at a chair and/or desk that is comfortable for a student who is pregnant to sit in
- Breaks during class
- Closer/easier parking access
- Rescheduling tests and exams according to the same policies applied to students with medical conditions
- Receiving excused absences according to the same policies applied to students with medical conditions
- Submitting work after a missed deadline according to the same policies applied to students with medical conditions.
- Consideration of reasonable alternatives to make-up missed work
- Receiving reasonable time for nursing and access to lactation spaces
- If a college does not have a leave policy for students, or the student does not otherwise qualify for leave under the policy, a college must provide leave to a student for pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, for as long as the student's physician deems medically necessary. After that leave, the student must be reinstated to the status the student held when the leave began.
- A faculty member/instructor may not refuse to allow a student to submit work after missing a deadline because of absences due to pregnancy or childbirth.
- If a faculty member's/instructor's grading is based in part on class attendance or participation, the student should be allowed to earn the missed credits and be reinstated to the student's pre-leave status.

Contact Information for Roseman University's Title IX Coordinator

Michael DeYoung, PhD
Title IX Coordinator and Vice President for Student Affairs
Office # 161
11 Sunset Way
Henderson, NV 89014
(702) 968-2006
mdeyoung@roseman.edu

Tips for Students who are Pregnant or who have Related Conditions

- Ask Roseman University's Title IX Coordinator for assistance.
- Immediately report issues/concerns to Roseman's Title IX Coordinator.

It is recommended that students keep notes about pregnancy-related absences, any instances of harassment, and interactions with university/college officials related to pregnancy or related conditions.

- If a student feels that Roseman is discriminating against them because they are pregnant or they have a related condition, the student may file a complaint:
 - Following Roseman's Title IX grievance procedures.
 - Prior to filing a complaint with OCR against Roseman, a potential complainant may want to learn about Roseman's grievance process and use that process to have the complaint resolved. However, a complainant is not required by law to use Roseman's grievance process before filing a complaint with OCR. If a complainant uses Roseman's grievance process and also chooses to file the complaint with OCR, the complaint must be filed with OCR within 60 days after completion of Roseman's grievance process.
(<https://www2.ed.gov/about/offices/list/ocr/docs/howto.html>.)
 - With the US Department of Education, Office for Civil Rights (OCR), even if a student has not filed a complaint with Roseman. If a student files a complaint with OCR, the student must do so within 180 days (6 months) of when the discrimination took place. If a student wishes to fill out a complaint form online, they may do so at: <http://www.ed.gov/ocr/complaintintro.html>
 - In court, even if a student has not filed a complaint with Roseman or OCR.

To learn more about a student's rights, or if a student believes the University is violating Federal law, the student may contact:

- The U.S. Department of Education, Office for Civil Rights, at (800) 421-3481 or ocr@ed.gov.
- Roseman University's Title IX Coordinator

Pregnancy/Pregnancy-Related Condition Adjustment/Accommodation Request and Grievance Process *Adjustment/Accommodation Request*

A student can follow the process described in this section to make a request to Roseman University's Title IX Coordinator to receive an academic adjustment/accommodation or financial aid adjustment based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

Students requesting an adjustment/accommodation based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom must contact Roseman's Title IX Coordinator to begin this process. This request should be made as soon as possible after the student learns of their condition. The Title IX Coordinator may request additional documentation and/or information from the student to facilitate the completion of this process.

Roseman's Title IX Coordinator is responsible for facilitating the interactive process between the student and the designated administrator from the student's college to address the student's request for an adjustment/accommodation and, once an agreement has been reached between both parties, assuring that the student receives the approved adjustments/accommodations.

If the student is not satisfied with the results of this interactive process, they have the right to submit a complaint to Roseman's Title IX Coordinator

Title IX Pregnancy/Pregnancy-Related Condition Complaint and Grievance Process

Please refer to the Roseman's Title IX Sex Discrimination Complaint and Grievance Process in this document.

APPENDIX

§ 106.2 Definitions

§ 106.44 Recipient's response to sex discrimination

§ 106.45 Grievance procedures for the prompt and equitable resolution of complaints of sex discrimination

§ 106.46 Grievance procedures for the prompt and equitable resolution of complaints of sex-based harassment involving student complainants or student respondents at postsecondary institutions.

§ 106.2 Definitions.

As used in this part, the term:

Administrative law judge

means a person appointed by the reviewing authority to preside over a hearing held under § 106.81.

Administratively separate unit

means a school, department, or college of an educational institution (other than a local educational agency), admission to which is independent of admission to any other component of such institution.

Admission

means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

Applicant, as used in the definition of educational institution in this section and as used in § 106.4, means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

Assistant Secretary

means the Assistant Secretary for Civil Rights of the Department.

Complainant means:

(1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part;

or

(2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Complaint

means an oral or written request to the recipient that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or this part.

Confidential employee means:

- (1) An employee of a recipient whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;
- (2) An employee of a recipient whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or
- (3) An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

Department

means the Department of Education.

Disciplinary sanctions

means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

Educational institution

means a local educational agency (LEA) as defined by section 8101 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (20 U.S.C. 7801(30)), a preschool, a private elementary or secondary school, or an applicant or recipient that is an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education.

Elementary school

means elementary school as defined by section 8101 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (20 U.S.C. 7801(19)), and a public or private preschool.

Federal financial assistance

means any of the following, when authorized or extended under a law administered by the Department:

- (1) A grant or loan of Federal financial assistance, including funds made available for:
 - (i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and
 - (ii) Scholarships, loans, grants, wages, or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.
- (2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.
- (3) Provision of the services of Federal personnel.
- (4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.
- (5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

Institution of graduate higher education

means an institution which:

- (1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or
- (2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or
- (3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

Institution of professional education

means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the Secretary.

Institution of undergraduate higher education means:

- (1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or
- (2) An institution offering academic study leading to a baccalaureate degree; or
- (3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

Institution of vocational education

means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.

Parental status, as used in §§ 106.21(c)(2)(i), 106.37(a)(3), 106.40(a), and 106.57(a)(1), means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (1) A biological parent;
- (2) An adoptive parent;
- (3) A foster parent;
- (4) A stepparent;
- (5) A legal custodian or guardian;
- (6) In loco parentis with respect to such a person; or
- (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Party

means a complainant or respondent.

Peer retaliation

means retaliation by a student against another student.

Postsecondary institution

means an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education that serves postsecondary school students.

Pregnancy or related conditions means:

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Program or activity and program means all of the operations of—

- (1)
 - (i) A department, agency, special purpose district, or other instrumentality of a State or local government; or
 - (ii) The entity of a State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;
- (2)
 - (i) A college, university, or other postsecondary institution, or a public system of higher education; or
 - (ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;
- (3)
 - (i) An entire corporation, partnership, other private organization, or an entire sole proprietors —
 - (A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or
 - (B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or
 - (ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or
- (4) Any other entity that is established by two or more of the entities described in paragraph (1), (2), or (3) of this definition, any part of which is extended Federal financial assistance.

Recipient

means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives such assistance, including any subunit, successor, assignee, or transferee thereof.

Relevant

means related to the allegations of sex discrimination under investigation as part of the grievance procedures under § 106.45, and if applicable § 106.46. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies

means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

Respondent

means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

Retaliation

means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process under § 106.44(k), in grievance procedures under § 106.45, and if applicable § 106.46, and in any other actions taken by a recipient under § 106.44(f)(1). Nothing in this definition or this part precludes a recipient from requiring an employee or other person authorized by a recipient to provide aid, benefit, or service under the recipient's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

Reviewing authority

means that component of the Department delegated authority by the Secretary to appoint, and to review the decisions of, administrative law judges in cases arising under this part.

Secondary school

means secondary school as defined by section 8101 of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (20 U.S.C. 7801(45)), and an institution of vocational education that serves secondary school students.

Secretary

means the Secretary of Education.

Sex-based harassment prohibited by this part is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in § 106.10, that is:

- (1) *Quid pro quo harassment*. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- (2) *Hostile environment harassment*. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
 - (ii) The type, frequency, and duration of the conduct;
 - (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - (iv) The location of the conduct and the context in which the conduct occurred; and
 - (v) Other sex-based harassment in the recipient's education program or activity; or
- (3) Specific offenses.
- (i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
 - (ii) Dating violence meaning violence committed by a person:
 - (A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (1) The length of the relationship;
 - (2) The type of relationship; and
 - (3) The frequency of interaction between the persons involved in the relationship;
 - (iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:
 - (A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - (B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (C) Shares a child in common with the victim; or
 - (D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
 - (iv) Stalking meaning 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.

Note 1 to the definition of sex-based harassment: The Assistant Secretary will not require a recipient to adopt a particular definition of consent, where that term is applicable with respect to sex-based harassment.

Student

means a person who has gained admission.

Student with a disability

means a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

Supportive measures

means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- (1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- (2) Provide support during the recipient's grievance procedures under § 106.45, and if applicable § 106.46, or during the informal resolution process under § 106.44(k).

Title IX

means Title IX of the Education Amendments of 1972 (Pub. L. 92-318; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688, 1689), as amended.

§ 106.44 Recipient's response to sex discrimination.

(a) *General.*

- (1) A recipient with knowledge of conduct that reasonably may constitute sex discrimination in its education program or activity must respond promptly and effectively; and
- (2) A recipient must also comply with this section to address sex discrimination in its education program or activity.

(b) *Barriers to reporting.* A recipient must require its Title IX Coordinator to:

- (1) Monitor the recipient's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination under Title IX or this part; and
- (2) Take steps reasonably calculated to address such barriers.

(c) *Notification requirements.*

- (1) An elementary school or secondary school recipient must require all of its employees who are not confidential employees to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or this part.
- (2) All other recipients must, at a minimum, require:

- (i) Any employee who is not a confidential employee and who either has authority to institute corrective measures on behalf of the recipient or has responsibility for administrative leadership, teaching, or advising in the recipient's education program or activity to notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or this part; and
- (ii) All other employees who are not confidential employees and not covered by paragraph (c)(2)(i) of this section to either:

- (A) Notify the Title IX Coordinator when the employee has information about conduct that reasonably may constitute sex discrimination under Title IX or this part; or
- (B) Provide the contact information of the Title IX Coordinator and information about how to make a complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination under Title IX or this part.

- (3) A postsecondary institution must reasonably determine and specify whether and under what circumstances a person who is both a student and an employee is subject to the requirements of paragraph (c)(2) of this section.
- (4) The requirements of paragraphs (c)(1) and (2) of this section do not apply to an employee who has personally been subject to conduct that reasonably may constitute sex discrimination under Title IX or this part.

(d) *Confidential employee requirements.*

- (1) A recipient must notify all participants in the recipient's education program or activity of how to contact its confidential employees, if any, excluding any employee whose confidential status is only with respect to their conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination as set out in the definition of confidential employee in § 106.2.
- (2) A recipient must require a confidential employee to explain to any person who informs the confidential employee of conduct that reasonably may constitute sex discrimination under Title IX or this part:
 - (i) The employee's status as confidential for purposes of this part, including the circumstances in which the employee is not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination;

- (ii) How to contact the recipient's Title IX Coordinator and how to make a complaint of sex discrimination; and
 - (iii) That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.
- (e) *Public awareness events.* When a postsecondary institution's Title IX Coordinator is notified of information about conduct that reasonably may constitute sex-based harassment under Title IX or this part that was provided by a person during a public event to raise awareness about sex-based harassment that was held on the postsecondary institution's campus or through an online platform sponsored by a postsecondary institution, the postsecondary institution is not obligated to act in response to the information, unless it indicates an imminent and serious threat to the health or safety of a complainant, any students, employees, or other persons. However, in all cases the postsecondary institution must use this information to inform its efforts to prevent sex-based harassment, including by providing tailored training to address alleged sex-based harassment in a particular part of its education program or activity or at a specific location when information indicates there may be multiple incidents of sex-based harassment. Nothing in Title IX or this part obligates a postsecondary institution to require its Title IX Coordinator or any other employee to attend such public awareness events.
- (f) *Title IX Coordinator requirements.* The Title IX Coordinator is responsible for coordinating the recipient's compliance with its obligations under Title IX and this part.
- (1) A recipient must require ***its Title IX Coordinator, when notified of conduct that reasonably may constitute sex discrimination under Title IX or this part, to*** take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:
- (i) Treat the complainant and respondent equitably;
 - (ii) Offer and coordinate supportive measures under paragraph (g) of this section, as appropriate, for the complainant. In addition, if the recipient has initiated grievance procedures under § 106.45, and if applicable § 106.46, or offered an informal resolution process under paragraph (k) of this section to the respondent, offer and coordinate supportive measures under paragraph (g) of this section, as appropriate, for the respondent;
 - (iii)
 - (A) Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the grievance procedures under § 106.45, and if applicable § 106.46, and the informal resolution process under paragraph (k) of this section, if available and appropriate;
 - and
 - (B) If a complaint is made, notify the respondent of the grievance procedures under § 106.45, and if applicable § 106.46, and the informal resolution process under paragraph (k) of this section, if available and appropriate;
 - (iv) In response to a complaint, initiate the grievance procedures under § 106.45, and if applicable § 106.46, or the informal resolution process under paragraph (k) of this section, if available and appropriate and requested by all parties;
 - (v) In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, determine whether to initiate a complaint of sex discrimination that complies with the grievance procedures under § 106.45, and if applicable § 106.46.
 - (A) To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors:
 - (1) The complainant's request not to proceed with initiation of a complaint;
 - (2) The complainant's reasonable safety concerns regarding initiation of a complaint;

- (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated;
 - (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;
 - (5) The age and relationship of the parties, including whether the respondent is an employee of the recipient;
 - (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals;
 - (7) The availability of evidence to assist a decisionmaker in determining whether sex discrimination
 - (8) Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures under § 106.45, and if applicable § 106.46
- (B) If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the complainant or other person, or that the conduct as alleged prevents the recipient from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.
- (vi) If initiating a complaint under paragraph (f)(1)(v) of this section, notify the complainant prior to doing so and appropriately address reasonable concerns about the complainant's safety or the safety of others, including by providing supportive measures consistent with paragraph (g) of this section; and
 - (vii) Regardless of whether a complaint is initiated, take other appropriate prompt and effective steps, in addition to steps necessary to effectuate the remedies provided to an individual complainant, if any, to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.
- (2) A Title IX Coordinator is not required to comply with paragraphs (f)(1)(i) through (vii) of this section upon being notified of conduct that may constitute sex discrimination if the Title IX Coordinator reasonably determines that the conduct as alleged could not constitute sex discrimination under Title IX or this part.
- (g) *Supportive measures.* Under paragraph (f) of this section, a recipient must offer and coordinate supportive measures, as appropriate, as described in paragraphs (g)(1) through (6) of this section. For allegations of sex discrimination other than sex-based harassment or retaliation, a recipient's provision of supportive measures does not require the recipient, its employee, or any other person authorized to provide aid, benefit, or service on the recipient's behalf to alter the alleged discriminatory conduct for the purpose of providing a supportive measure.
- (1) Supportive measures may vary depending on what the recipient deems to be reasonably available. These measures may include but are not limited to: counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.
 - (2) Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the recipient's educational environment, or to provide support during the recipient's grievance procedures under § 106.45, and if applicable § 106.46,

or during the informal resolution process under § 106.44(k). A recipient must not impose such measures for punitive or disciplinary reasons.

- (3) A recipient may, as appropriate, modify or terminate supportive measures at the conclusion of the grievance procedures under § 106.45, and if applicable § 106.46, or at the conclusion of the informal resolution process under paragraph (k) of this section, or the recipient may continue them beyond that point.
- (4) A recipient must provide a complainant or respondent with a timely opportunity to seek, from an appropriate and impartial employee, modification or reversal of the recipient's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the challenged decision and must have authority to modify or reverse the decision, if the impartial employee determines that the decision to provide, deny, modify, or terminate the supportive measure was inconsistent with the definition of supportive measures in § 106.2. A recipient must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.
- (5) A recipient must not disclose information about any supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, unless necessary to provide the supportive measure or restore or preserve a party's access to the education program or activity, or when an exception in § 106.44(j)(1) through (5) applies.
- (6)
 - (i) If the complainant or respondent is an elementary or secondary student with a disability, the recipient must require the Title IX Coordinator to consult with one or more members, as appropriate, of the student's Individualized Education Program (IEP) team, 34 CFR 300.321, if any, or one or more members, as appropriate, of the group of persons responsible for the student's placement decision under 34 CFR 104.35(c), if any, to determine how to comply with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.
 - (ii) If the complainant or respondent is a postsecondary student with a disability, the Title IX Coordinator may consult, as appropriate, with the individual or office that the recipient has with the definition of supportive measures in § 106.2. A recipient must also provide a party with the opportunity to seek additional modification or termination of a supportive measure applicable to them if circumstances change materially. designated to provide support to students with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, in the implementation of supportive measures.
- (h) *Emergency removal.* Nothing in this part precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an imminent and serious threat to the health or safety of a complainant or any students, employees, or other persons arising from the allegations of sex discrimination justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision must not be construed to modify any rights under the Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*

- (i) *Administrative leave.* Nothing in this part precludes a recipient from placing an employee respondent on administrative leave from employment responsibilities during the pendency of the recipient's grievance procedures. This provision must not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*
- (j) *Prohibited disclosures of personally identifiable information.* A recipient must not disclose personally identifiable information obtained in the course of complying with this part, except in the following circumstances:
 - (1) When the recipient has obtained prior written consent from a person with the legal right to consent to the disclosure;
 - (2) When the information is disclosed to a parent, guardian, or other authorized legal representative with the legal right to receive disclosures on behalf of the person whose personally identifiable information is at issue;
 - (3) To carry out the purposes of this part, including action taken to address conduct that reasonably may constitute sex discrimination under Title IX in the recipient's education program or activity;
 - (4) As required by Federal law, Federal regulations, or the terms and conditions of a Federal award, including a grant award or other funding agreement; or
 - (5) To the extent such disclosures are not otherwise in conflict with Title IX or this part, when required by State or local law or when permitted under FERPA, 20 U.S.C. 1232g, or its implementing regulations, 34 CFR part 99.
- (k) *Discretion to offer informal resolution in some circumstances.*
 - (1) At any time prior to determining whether sex discrimination occurred under § 106.45, and if applicable § 106.46, a recipient may offer to a complainant and respondent an informal resolution process, unless the complaint includes allegations that an employee engaged in sex-based harassment of an elementary school or secondary school student or such a process would conflict with Federal, State or local law. A recipient that provides the parties an informal resolution process must, to the extent necessary, also require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity.
 - (i) Subject to the limitations in paragraph (k)(1) of this section, a recipient has discretion to determine whether it is appropriate to offer an informal resolution process when it receives information about conduct that reasonably may constitute sex discrimination under Title IX or this part or when a complaint of sex discrimination is made, and may decline to offer informal resolution despite one or more of the parties' wishes.
 - (ii) In addition to the limitations in paragraph (k)(1) of this section, circumstances when a recipient may decline to allow informal resolution include but are not limited to when the recipient determines that the alleged conduct would present a future risk of harm to others.
 - (2) A recipient must not require or pressure the parties to participate in an informal resolution process. The recipient must obtain the parties' voluntary consent to the informal resolution process and must not require waiver of the right to an investigation and determination of a complaint as a condition of enrollment or continuing enrollment, or employment or continuing employment, or exercise of any other right.
 - (3) Before initiation of an informal resolution process, the recipient must provide to the parties notice that explains:
 - (i) The allegations;
 - (ii) The requirements of the informal resolution process;
 - (iii) That, prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and to initiate or resume the recipient's grievance procedures;

- (iv) That the parties' agreement to a resolution at the conclusion of the informal resolution process would preclude the parties from initiating or resuming grievance procedures arising from the same allegations;
 - (v) The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
 - (vi) What information the recipient will maintain and whether and how the recipient could disclose such information for use in grievance procedures under § 106.45, and if applicable § 106.46, if grievance procedures are initiated or resumed.
- (4) The facilitator for the informal resolution process must not be the same person as the investigator or the decisionmaker in the recipient's grievance procedures. Any person designated by a recipient to facilitate an informal resolution process must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. Any person facilitating informal resolution must receive training under § 106.8(d)(3).
- (5) Potential terms that may be included in an informal resolution agreement include but are not limited to:
- (i) Restrictions on contact; and
 - (ii) Restrictions on the respondent's participation in one or more of the recipient's programs or activities or attendance at specific events, including restrictions the recipient could have imposed as remedies or disciplinary sanctions had the recipient determined at the conclusion of the recipient's grievance procedures that sex discrimination occurred.

19. Section 106.45 is revised to read as follows:

§ 106.45 Grievance procedures for the prompt and equitable resolution of complaints of sex discrimination.

(a)

- (1) *General.* A recipient's grievance procedures for the prompt and equitable resolution of complaints of sex discrimination must be in writing and include provisions that incorporate the requirements of this section. The requirements related to a respondent apply only to sex discrimination complaints alleging that a person violated the recipient's prohibition on sex discrimination. When a sex discrimination complaint alleges that a recipient's policy or practice discriminates on the basis of sex, the recipient is not considered a respondent.
- (2) *Complaint.* The following persons have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the recipient investigate and make a determination about alleged discrimination under Title IX or this part:
 - (i) A complainant;
 - (ii) A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
 - (iii) The Title IX Coordinator, after making the determination specified in § 106.44(f)(1)(v);
 - (iv) With respect to complaints of sex discrimination other than sex-based harassment, in addition to the persons listed in paragraphs (a)(2)(i) through (iii) of this section,
 - (A) Any student or employee; or
 - (B) Any person other than a student or employee who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

(b) *Basic requirements for grievance procedures.* A recipient's grievance procedures must:

- (1) Treat complainants and respondents equitably;
- (2) Require that any person designated as a Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. The decisionmaker may be the same person as the Title IX Coordinator or investigator;
- (3) Include a presumption that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of the recipient's grievance procedures for complaints of sex discrimination;
- (4) Establish reasonably prompt timeframes for the major stages of the grievance procedures, including a process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reason for the delay. Major stages include, for example, evaluation (i.e., the recipient's decision whether to dismiss or investigate a complaint of sex discrimination); investigation; determination; and appeal, if any;
- (5) Require the recipient to take reasonable steps to protect the privacy of the parties and witnesses during the pendency of a recipient's grievance procedures, provided that the steps do not restrict the ability of the parties to: obtain and present evidence, including by speaking to witnesses, subject to § 106.71; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures;
- (6) Require an objective evaluation of all evidence that is relevant, as defined in § 106.2, and not otherwise impermissible under paragraph (b)(7) of this section—including both inculpatory and exculpatory evidence—and provide that credibility determinations must not be based on a person's status as a complainant, respondent, or witness;
- (7) Exclude the following types of evidence, and questions seeking that evidence, as impermissible (i.e., must not be accessed or considered, except by the recipient to determine whether an exception in

paragraphs (i) through (iii) applies; must not be disclosed; and must not otherwise be used), regardless of whether they are relevant:

- (i) Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
 - (ii) A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the recipient obtains that party's or witness's voluntary, written consent for use in the recipient's grievance procedures; and
 - (iii) Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred; and
- (8) If a recipient adopts grievance procedures that apply to the resolution of some, but not all, complaints articulate consistent principles for how the recipient will determine which procedures apply.
- (c) *Notice of allegations.* Upon initiation of the recipient's grievance procedures, a recipient must provide notice of the allegations to the parties whose identities are known.
- (1) The notice must include:
 - (i) The recipient's grievance procedures under this section, and if applicable § 106.46, and any informal resolution process under § 106.44(k);
 - (ii) Sufficient information available at the time to allow the parties to respond to the allegations. Sufficient information includes the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination under Title IX or this part, and the date(s) and location(s) of the alleged incident(s), to the extent that information is available to the recipient;
 - (iii) A statement that retaliation is prohibited; and
 - (iv) A statement that the parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence as set out in paragraph (f)(4) of this section; and if the recipient provides a description of the evidence, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party.
 - (2) If, in the course of an investigation, the recipient decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided under paragraph (c) of this section or that are included in a complaint that is consolidated under paragraph (e) of this section, the recipient must provide notice of the additional allegations to the parties whose identities are known.
- (d) *Dismissal of a complaint.*
- (1) A recipient may dismiss a complaint of sex discrimination made through its grievance procedures under this section, and if applicable § 106.46, for any of the following reasons:
 - (i) The recipient is unable to identify the respondent after taking reasonable steps to do so;
 - (ii) The respondent is not participating in the recipient's education program or activity and is not employed by the recipient;
 - (iii) The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint under § 106.44(f)(1)(v), and the recipient determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX or this part even if proven; or

- (iv) The recipient determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX or this part. Prior to dismissing the complaint under this paragraph, the recipient must make reasonable efforts to clarify the allegations with the complainant.
- (2) Upon dismissal, a recipient must promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the recipient must also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.
- (3) A recipient must notify the complainant that a dismissal may be appealed and provide the complainant with an opportunity to appeal the dismissal of a complaint on the bases set out in § 106.46(i)(1). If the dismissal occurs after the respondent has been notified of the allegations, then the recipient must also notify the respondent that the dismissal may be appealed on the bases set out in § 106.46(i)(1). If the dismissal is appealed, the recipient must:
 - (i) Notify the parties of any appeal, including notice of the allegations consistent with paragraph (c) of this section if notice was not previously provided to the respondent;
 - (ii) Implement appeal procedures equally for the parties;
 - (iii) Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
 - (iv) Ensure that the decisionmaker for the appeal has been trained as set out in § 106.8(d)(2);
 - (v) Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
 - (vi) Notify the parties of the result of the appeal and the rationale for the result.
- (4) A recipient that dismisses a complaint must, at a minimum:
 - (i) Offer supportive measures to the complainant as appropriate under § 106.44(g);
 - (ii) For dismissals under paragraph (d)(1)(iii) or (iv) of this section in which the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate under § 106.44(g); and
 - (iii) Require its Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity under § 106.44(f)(1)(vii).
- (e) *Consolidation of complaints.* A recipient may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. If one of the complaints to be consolidated is a complaint of sex-based harassment involving a student complainant or student respondent at a postsecondary institution, the grievance procedures for investigating and resolving the consolidated complaint must comply with the requirements of § 106.46 in addition to the requirements of this section. When more than one complainant or more than one respondent is involved, references in this section and in § 106.46 to a party, complainant, or respondent include the plural, as applicable.
- (f) *Complaint investigation.* A recipient must provide for adequate, reliable, and impartial investigation of complaints. To do so, the recipient must:
 - (1) Ensure that the burden is on the recipient—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred;
 - (2) Provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;
 - (3) Review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance, consistent with § 106.2 and with paragraph (b)(7) of this section; and

- (4) Provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, consistent with § 106.2 and with paragraph (b)(7) of this section, in the following manner:
- (i) A recipient must provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the recipient provides a description of the evidence, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
 - (ii) A recipient must provide a reasonable opportunity to respond to the evidence or to the accurate description of the evidence described in paragraph (f)(4)(i) of this section; and
 - (iii) A recipient must take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.
- (g) *Questioning parties and witnesses to aid in evaluating allegations and assessing credibility.*
A recipient must provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.
- (h) *Determination whether sex discrimination occurred.*
Following an investigation and evaluation of all relevant and not otherwise impermissible evidence under paragraphs (f) and (g) of this section, the recipient must:
- (1) Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred, unless the recipient uses the clear and convincing evidence standard of proof in all other comparable proceedings, including proceedings relating to other discrimination complaints, in which case the recipient may elect to use that standard of proof in determining whether sex discrimination occurred. Both standards of proof require the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness; if the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that sex discrimination occurred.
 - (2) Notify the parties in writing of the determination whether sex discrimination occurred under Title IX or this part including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
 - (3) If there is a determination that sex discrimination occurred, as appropriate, require the Title IX Coordinator to coordinate the provision and implementation of remedies to a complainant and other persons the recipient identifies as having had equal access to the recipient's education program or activity limited or denied by sex discrimination, coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions, and require the Title IX Coordinator to take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the recipient's education program or activity under § 106.44(f)(1)(vii). A recipient may not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the recipient's grievance procedures that the respondent engaged in prohibited sex discrimination;
 - (4) Comply with § 106.45, and if applicable § 106.46, before the imposition of any disciplinary sanctions against a respondent; and
 - (5) Not discipline a party, witness, or others participating in a recipient's grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the recipient's determination whether sex discrimination occurred.
- (i) *Appeals.*
In addition to an appeal of a dismissal consistent with paragraph (d)(3) of this section, a recipient must offer the parties an appeal process that, at a minimum, is the same as it offers in all other comparable proceedings, if any, including proceedings relating to other discrimination complaints.

For a complaint of sex-based harassment involving a student complainant or student respondent, a postsecondary institution must also offer an appeal on the bases set out in § 106.46(i)(1).

(j) *Additional provisions.* If a recipient adopts additional provisions as part of its grievance procedures for handling complaints of sex discrimination, including sex-based harassment, such additional provisions must apply equally to the parties.

(k) *Informal resolution.*

In lieu of resolving a complaint through the recipient's grievance procedures, the parties may instead elect to participate in an informal resolution process under § 106.44(k) if provided by the recipient consistent with that paragraph.

(l) Provisions limited to sex-based harassment complaints. For complaints alleging sex-based harassment, the grievance procedures must:

- (1) Describe the range of supportive measures available to complainants and respondents under § 106.44(g); and
- (2) List, or describe the range of, the possible disciplinary sanctions that the recipient may impose and remedies that the recipient may provide following a determination that sex-based harassment occurred.

§ 106.46 Grievance procedures for the prompt and equitable resolution of complaints of sex-based harassment involving student complainants or student respondents at postsecondary institutions.

- (a) *General.* A postsecondary institution's written grievance procedures for prompt and equitable resolution of complaints of sex-based harassment involving a student complainant or student respondent must include provisions that incorporate the requirements of § 106.45 and this section.
- (b) *Student employees.* When a complainant or respondent is both a student and an employee of a postsecondary institution, the postsecondary institution must make a fact-specific inquiry to determine whether the requirements of this section apply. In making this determination, a postsecondary institution must, at a minimum, consider whether the party's primary relationship with the postsecondary institution is to receive an education and whether the alleged sex-based harassment occurred while the party was performing employment-related work.
- (c) *Written notice of allegations.* Upon the initiation of the postsecondary institution's sex-based harassment grievance procedures under this section, a postsecondary institution must provide written notice to the parties whose identities are known with sufficient time for the parties to prepare a response before any initial interview.
 - (1) The written notice must include all information required under § 106.45(c)(1)(i) through (iii) and also inform the parties that:
 - (i) The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures under this section and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker
 - (ii) They may have an advisor of their choice to serve in the role set out in paragraph (e)(2) of this section, and that the advisor may be, but is not required to be, an attorney;
 - (iii) They are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence as set out in paragraph (e)(6) of this section; and if the postsecondary institution provides access to an investigative report, the parties are entitled to an equal opportunity to access to the relevant and not otherwise impermissible evidence upon the request of any party; and
 - (iv) If applicable, the postsecondary institution's code of conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedure.
 - (2) If, in the course of an investigation, the recipient decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice provided under paragraph (c) of this section or that are included in a complaint that is consolidated under § 106.45(e), the recipient must provide written notice of the additional allegations to the parties whose identities are known.
 - (3) To the extent the postsecondary institution has reasonable concerns for the safety of any person as a result of providing this notice, the postsecondary institution may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.
- (d) *Dismissal of a complaint.* When dismissing a complaint alleging sex-based harassment involving a student complainant or a student respondent, a postsecondary institution must:
 - (1) Provide the parties, simultaneously, with written notice of the dismissal and the basis for the dismissal, if dismissing a complaint under any of the bases in § 106.45(d)(1), except if the dismissal occurs before the respondent has been notified of the allegations, in which case the recipient must provide such written notice only to the complainant; and
 - (2) Obtain the complainant's withdrawal in writing if dismissing a complaint based on the complainant's voluntary withdrawal of the complaint or allegations under § 106.45(d)(1)(iii).

(e) *Complaint investigation.*

When investigating a complaint alleging sex-based harassment and throughout the postsecondary institution's grievance procedures for complaints of sex-based harassment involving a student complainant or a student respondent, a postsecondary institution:

- (1) Must provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate;
- (2) Must provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding; however, the postsecondary institution may establish restrictions regarding the extent to which the advisor may participate in the grievance procedures, as long as the restrictions apply equally to the parties;
- (3) Must provide the parties with the same opportunities, if any, to have persons other than the advisor of the parties' choice present during any meeting or proceeding;
- (4) Has discretion to determine whether the parties may present expert witnesses as long as the determination applies equally to the parties;
- (5) Must allow for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the parties that includes the reason for the delay; and
- (6) Must provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, consistent with §§ 106.2 and 106.45(b)(7), in the following manner:

(i) A postsecondary institution must provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.

If the postsecondary institution provides access to an investigative report, it must further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;

(ii) A postsecondary institution must provide the parties with a reasonable opportunity to review and respond to the evidence or the investigative report described in paragraph (e)(6)(i) of this section prior to the determination whether sex-based harassment occurred.

If a postsecondary institution conducts a live hearing as part of its grievance procedures, it must provide this opportunity to review the evidence in advance of the live hearing; it is at the postsecondary institution's discretion whether to provide this opportunity to respond prior to the live hearing, during the live hearing, or both prior to and during the live hearing;

(iii) A postsecondary institution must take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures. For purposes of this paragraph, disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment are authorized; and

(iv) Compliance with paragraph (e)(6) of this section satisfies the requirements of § 106.45(f)(4).

(f) *Questioning parties and witnesses to aid in evaluating allegations and assessing credibility.*

- (1) Process for questioning parties and witnesses.

A postsecondary institution must provide a process as specified in this subpart that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's

credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment. Questioning of the parties and witnesses must take place consistent with the following provisions before determining whether sex-based harassment occurred:

- (i) When a postsecondary institution chooses not to conduct a live hearing under paragraph (g) of this section, the process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses under §§ 106.2 and 106.45(b)(7), including questions challenging credibility, must:
 - (A) Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
 - (B) Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the requirements in paragraph (f)(3) of this section; and
 - (C) Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.
 - (ii) When a postsecondary institution chooses to conduct a live hearing under paragraph (g) of this section, the process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses under §§ 106.2 and 106.45(b)(7), including questions challenging credibility, must allow the decisionmaker to ask such questions, and either:
 - (A) Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the decisionmaker, subject to the requirements under paragraph (f)(3) of this section; or
 - (B) Allow each party's advisor to ask any party or witness such questions, subject to the requirements under paragraph (f)(3) of this section. Such questioning must never be conducted by a party personally. If a postsecondary institution permits advisor-conducted questioning and a party does not have an advisor to ask questions on their behalf, the postsecondary institution must provide the party with an advisor of the postsecondary institution's choice, without charge to the party, for the purpose of advisor-conducted questioning. In those instances, the postsecondary institution must not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.
- (2) *Compliance with § 106.45(g).* Compliance with paragraph (f)(1)(i) or (ii) of this section satisfies the requirements of § 106.45(g).
- (3) *Procedures for the decisionmaker to evaluate the questions and limitations on questions.* The decisionmaker must determine whether a proposed question is relevant under § 106.2 and not otherwise impermissible under § 106.45(b)(7), prior to the question being posed, and must explain any decision to exclude a question as not relevant or otherwise impermissible. If a decisionmaker determines that a party's question is relevant and not otherwise impermissible, then the question must be asked except that a postsecondary institution must not permit questions that are unclear or harassing of the party or witness being questioned. The decisionmaker must give a party an opportunity to clarify or revise a question that the decisionmaker has determined is unclear or harassing and, if the party sufficiently clarifies or revises a question to satisfy the terms of this paragraph, the question must be asked. A postsecondary institution may also adopt and apply other reasonable rules regarding decorum, provided they apply equally to the parties.

(4) *Refusal to respond to questions and inferences based on refusal to respond to questions.* A decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

(g) *Live hearing procedures.*

A postsecondary institution's sex-based harassment grievance procedures may, but need not, provide for a live hearing. If a postsecondary institution chooses to conduct a live hearing, it may conduct the live hearing with the parties physically present in the same geographic location. At the postsecondary institution's discretion the institution may, or upon the request of either party it must, conduct the live hearing with the parties physically present in separate locations, with technology enabling the decisionmaker and parties to simultaneously see and hear the party or the witness while that person is speaking. A postsecondary institution must create an audio or audiovisual recording or transcript, of any live hearing and make it available to the parties for inspection and review.

(h) *Written determination whether sex-based harassment occurred.* The postsecondary institution must provide the determination whether sex-based harassment occurred in writing to the parties simultaneously.

(1) The written determination must include:

- (i) A description of the alleged sex-based harassment;
- (ii) Information about the policies and procedures that the postsecondary institution used to evaluate the allegations;
- (iii) The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
- (iv) When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions the postsecondary institution will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the postsecondary institution to the complainant, and, to the extent appropriate, other students identified by the postsecondary institution to be experiencing the effects of the sex-based harassment; and
- (v) The postsecondary institution's procedures for the complainant and respondent to appeal.

(2) The determination regarding responsibility becomes final either on the date that the postsecondary institution provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

(i) *Appeals.*

(1) A postsecondary institution must offer the parties an appeal from a determination whether sex-based harassment occurred, and from a postsecondary institution's dismissal of a complaint or any allegations therein, on the following bases:

- (i) Procedural irregularity that would change the outcome;
- (ii) New evidence that would change the outcome and that was not reasonably available when the determination whether sex-based harassment occurred or dismissal was made; and
- (iii) The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

(2) A postsecondary institution may offer an appeal to the parties on additional bases, so long as the procedures and additional bases for appeal are equally available to all parties.

(3) As to all appeals, the postsecondary institution must comply with the requirements in § 106.45(d)(3)(i), (v), and (vi) in writing.

(j) *Informal resolution.* If a postsecondary institution offers or provides the parties to the grievance procedures under § 106.45 and under this section with an informal resolution process under § 106.44(k), the postsecondary

institution must inform the parties in writing of the offer and their rights and responsibilities in the informal resolution process and otherwise comply with the provisions of § 106.44(k)(3) in writing.