

# Title IX Sexual Misconduct Complaint Resolution Procedure

## Scope

Applies to the following persons when participating in Mayo Clinic educational programs, activities, organizations, or events:

- All Mayo Clinic employees, including Consulting Staff, Administrative Voting Staff, Allied Health employees, employed Research Temporary Professionals, faculty members, and other employees;
- Applicants for employment or admission to educational programs;
- The Board of Governors;
- All learners and students, including recognized learner or student organizations; and
- Third parties (such as non-employee physician/scientists, patients, alumni, contractors, vendors, and visitors).

## Purpose

To establish and provide all members of the Mayo Clinic community with a framework for addressing, resolving, and remediating sexual misconduct that may arise in educational programs, activities, organizations, and events.

## Equipment/Supplies

N/A

## Procedure

**The Title IX Sexual Misconduct Complaint Resolution Procedure (Procedure) is intended to be flexible so as to allow Mayo Clinic to fulfill its mission and maintain a safe, non-discriminatory learning and working environment. At any and every step of the Procedure, the Title IX Coordinator or a designee has discretion to deviate from the Procedure when deemed appropriate under the circumstances.**

This Procedure is the exclusive means of resolving complaints alleging violations of the Title IX Sexual Misconduct Policy. To the extent there are any inconsistencies between this Procedure and other Mayo Clinic grievance, complaint, or discipline policies or procedures, the Title IX Sexual Misconduct Complaint Resolution Procedure will control the resolution of complaints alleging violations of the Title IX Sexual Misconduct Policy.

## Reporting

Complainant, or Any Person Providing a Report of Sexual Misconduct	<ol style="list-style-type: none"><li>1. Report sexual misconduct as soon as possible to location officials and/or law enforcement, where appropriate.<ol style="list-style-type: none"><li>a. Emergency Reports - dial 911 to be connected with emergency responders</li><li>b. <a href="#">Title IX Coordinator</a></li><li>c. <a href="#">Mayo Clinic Security</a></li></ol></li></ol>
--	---

	<ul style="list-style-type: none"> <li>d. Compliance Hotline/Anonymous Reports - Compliance Hotline at 888-721-5391 or emailing <a href="#">The Compliance Hotline</a></li> <li>e. Law Enforcement</li> </ul> <p>2. Include the following information in the complaint to the extent possible (do not be deterred from reporting if all information is not available):</p> <ul style="list-style-type: none"> <li>a. the date(s) and time(s) of the alleged conduct;</li> <li>b. the names of all person(s) involved in the alleged conduct, including possible witnesses;</li> <li>c. all details outlining what happened; and</li> <li>d. contact information for the Complainant and/or Reporter so that Mayo Clinic may follow up appropriately.</li> </ul>
<p>Title IX Coordinator/Designee</p>	<ul style="list-style-type: none"> <li>3. Receive report of Sexual Misconduct allegations.</li> <li>4. Contact Complainant. <ul style="list-style-type: none"> <li>a. Where the Complainant was not person who the reported the allegations to the Title IX Coordinator/Designee, attempt to contact the Complainant within 48 hours.</li> </ul> </li> <li>5. Give Complainant a written document providing information about the Title IX Sexual Misconduct Policy and this Procedure as used to investigate and resolve complaints of sexual misconduct, privacy and confidentiality, interim measures, options for filing complaints with the local police, and resources that are available on location and in the community, etc.</li> <li>6. Give Complainant the opportunity to discuss the complaint further, identify witnesses, and provide evidence.</li> <li>7. Provide Complainant with information about <a href="#">preserving evidence</a>.</li> <li>8. Assist Complainant in preserving materials relevant to a Mayo Clinic sexual misconduct disciplinary proceeding.</li> <li>9. Consult with Complainant about their wishes for an investigation.</li> <li>10. Determine whether to proceed with an investigation based on Complainant's wishes and other relevant factors. <ul style="list-style-type: none"> <li>a. For incidents reported after the passage of more than two years consult with other appropriate Mayo Clinic officials, based on the availability of the parties, witnesses, and evidence and in light of Mayo Clinic's interest in providing a safe, non-discriminatory learning and working</li> </ul> </li> </ul>

	<p>environment, to determine how to proceed.</p> <p>11. At the direction of law enforcement, assist in obtaining, securing, and maintaining evidence in connection with a sexual assault, relationship violence, or stalking incident.</p>
--	--

## Investigation

Mayo Clinic will attempt to conclude most investigations in 60 days, depending on the availability of parties, witnesses, evidence, and other scheduling considerations.

<p>Title IX Coordinator/Designee</p>	<p><b>Where it is determined that an investigation will proceed</b></p> <p>12. Provide written notice of the complaint to, and initiate a meeting with, the Respondent, typically within 7 days of receipt of the complaint.</p> <p style="padding-left: 40px;">a. The written notice of the complaint will include information concerning the essential nature of the complaint, including, if possible:</p> <p style="padding-left: 80px;">i. when and where the alleged sexual misconduct occurred,</p> <p style="padding-left: 80px;">ii. the type of sexual misconduct alleged, and</p> <p style="padding-left: 80px;">iii. the alleged policy violation(s) to be investigated.</p> <p>13. Give Respondent a written document providing information about the Title IX Sexual Misconduct Policy and this Procedure as used to investigate and resolve complaints of sexual misconduct, privacy and confidentiality, interim measures, options for filing complaints with the local police, and resources that are available on campus and in the community, etc.</p> <p>14. Give Respondent an opportunity to respond to the complaint, identify witnesses, and provide evidence.</p> <p>15. Investigate the complaint or, at one's discretion, designate a trained investigator to investigate a complaint.</p> <p style="padding-left: 40px;">a. The investigator may be a Mayo Clinic employee or an outside investigator.</p> <p>16. Provide the parties with periodic updates regarding the status of the investigation.</p>
<p>Respondent</p>	<p>17. At any time prior to the issuance of a final investigatory report, may accept responsibility for the conduct underlying the complaint.</p> <p style="padding-left: 40px;">a. If and when Respondent accepts responsibility, the final investigatory report will be prepared.</p>

Complainant and Respondent	<p><b>18.</b> Request additional updates, at any time, by contacting the Title IX Coordinator/Designee.</p>
Investigator (Title IX Coordinator or Designated Investigator)	<p>19. Conduct fact finding including review of the statements and evidence presented by the parties.</p> <ul style="list-style-type: none"> <li>a. Depending on the circumstances, may also: <ul style="list-style-type: none"> <li>i. interview others with relevant knowledge,</li> <li>ii. review documentary materials,</li> <li>iii. conduct follow up interviews, and</li> <li>iv. take any other appropriate action to gather and consider information relevant to the complaint.</li> </ul> </li> </ul> <p>20. Facilitate effective cross-examination of the relevant information.</p> <ul style="list-style-type: none"> <li>a. The parties will not cross-examine the other party or witnesses directly in person</li> </ul> <p><b>At the conclusion of the investigation</b></p> <p>21. Prepare an interim investigatory report.</p> <ul style="list-style-type: none"> <li>a. The interim investigatory report will include a summary of information learned during the investigation but will not include a determination of whether a policy violation occurred.</li> </ul> <p>22. If investigator is not the Title IX Coordinator, provide interim report to Title IX Coordinator.</p>
Title IX Coordinator/Designee	<p>23. Meet with each party and provide parties with an opportunity to read the interim investigatory report.</p> <ul style="list-style-type: none"> <li>a. Neither party will be given a copy of the report.</li> <li>b. Share, if determined appropriate, evidence collected and reviewed during the investigation process.</li> </ul>
Complainant and Respondent	<p>24. Respond in writing to the interim investigatory report, generally within 72 hours of reviewing the report.</p>
Title IX Coordinator/Designee	<p>25. Receive and consider any timely responses.</p> <p>26. If the Respondent accepts responsibility prior to the issuance of a final investigatory report, refer the case to the appropriate <a href="#">sanctioning official</a> for imposition of any appropriate disciplinary or remedial action.</p> <p>27. Conduct, as appropriate, any additional investigation deemed necessary in her/his discretion.</p> <p>28. Edit the interim investigatory report as appropriate given any response from the parties.</p>

29. Make a determination about whether a preponderance of the evidence substantiates a finding of a violation of the Title IX Sexual Misconduct Policy.

- a. In making any determination on the resolution of the complaint following an investigation, the evidentiary standard is the [preponderance of the evidence](#); that is, whether it is more likely than not that sexual misconduct occurred.
- b. The burden is on Mayo Clinic College of Medicine and Science, as investigator, to gather sufficient information to reach a fair, impartial decision as to whether a policy violation has occurred.

30. Finalize the report.

- a. The final report will contain a:
  - i. Summary of information learned during the investigation;
  - ii. Determination of whether a preponderance of the evidence substantiates a finding of a violation of the Title IX Sexual Misconduct Policy;
  - iii. Designation of the appropriate official/s to:
    - a. Where necessary, make a determination of appropriate disciplinary and remedial action, and
    - b. Determine any appeal.

31. Meet with each party and provide an opportunity to read the report. The parties will not be given a copy of the report.

- a. The written determination of the investigator, and any sanction issued by the sanctioning official, is final, subject only to the right of appeal.

**If a respondent is found to have committed a policy violation**

32. Communicate the decision to the appropriate sanctioning official based on the respondent's status (learner, employee, third party). Note: the investigatory provisions of the policies and procedures listed below do not apply to investigations under the Title IX Sexual Misconduct Policy and Procedure.

33. Relevant sanctioning policy/procedures for respondents:

- a. For learners:
  - i. Warning, Probation, Dismissal, and

	<p style="text-align: center;">Appeal Policy</p> <ul style="list-style-type: none"> <li>ii. Warning, Probation, Dismissal, and Appeal Procedure</li> </ul> <p>b. For Mayo Clinic employees, as applicable:</p> <ul style="list-style-type: none"> <li>i. Appeals Policy/Procedure</li> <li>ii. Appeals Procedures</li> <li>iii. Faculty Misconduct Policy</li> <li>iv. Third Parties (such as non-employee physicians/scientists, patients, alumni, contractors, vendors, and visitors)</li> </ul>
Sanctioning Official	<p>34. Determine a sanction, in accordance with the applicable policy/procedure based on Respondent's status, or remedial action.</p> <p>35. Communicate the sanctioning decision to the parties, in a manner consistent with applicable laws.</p> <ul style="list-style-type: none"> <li>a. This sanction decision is final, subject only to the right of appeal.</li> </ul> <p>36. Report any sanctions issued to the Title IX Coordinator.</p>

## Appeal

Complainant and/or Respondent	<p>37. Consider whether to appeal either:</p> <ul style="list-style-type: none"> <li>a. A report finding that the preponderance of the evidence does not substantiate a finding of a policy violation, or</li> <li>b. The determination of any sanction or remedial action.</li> </ul> <p>38. Based on the Respondent's status (learner, employee, third party), the relevant appeal procedures are found in corresponding policies/procedures identified below:</p> <ul style="list-style-type: none"> <li>a. For learners: Warning, Probation, Dismissal, and Appeal Policy and Warning, Probation, Dismissal, and Appeal Procedure</li> <li>b. For Mayo Clinic employees: as applicable: <ul style="list-style-type: none"> <li>▪ Appeals Policy/Procedure</li> <li>▪ Appeals Procedures</li> <li>▪ Faculty Misconduct Policy</li> </ul> </li> <li>c. Third parties (such as nonemployee physician/scientists, patients, alumni, contractors, vendors, and visitors)</li> </ul>
-------------------------------	--

Appellate Official(s)	<p>39. In accordance with the applicable policies/procedures, review the appeal and make one or more of the following determinations:</p> <ul style="list-style-type: none"> <li>a. Reject the findings of the investigatory report and request further investigation;</li> <li>b. Reject the sanctions issued by the sanctioning official(s) based on evidence in the investigatory report and other relevant evidence; or</li> <li>c. Deny the appeal in whole or in part.</li> </ul> <p>40. Provide a written determination of any appeal, summarizing the reasoning behind the determination, to the Title IX Coordinator.</p>
Title IX Coordinator/Designee	41. Promptly notify each party in writing of the outcome of the appeal.
Complainant and/or Respondent	<p>42. May request to review the written appeal determination.</p> <ul style="list-style-type: none"> <li>a. Parties will not be given a copy of the appeal determination.</li> </ul>

## Troubleshooting

N/A

## Procedural Notes

Mayo Clinic has designated the following person to coordinate its compliance with laws regarding sexual misconduct, including Title IX/VAWA, and to receive inquiries regarding sexual misconduct, including complaints of sex discrimination:

Title IX Coordinator

Amy Boyer

Office phone: (507) 284-4714

Pager: (507) 538-2958

Email: [Boyer.Amy@mayo.edu](mailto:Boyer.Amy@mayo.edu)

## Mayo Clinic Security

Location	Contact
Albert Lea, MN	Emergency 27777 or (507) 377-4774 Non-emergency (507) 668-2100
Austin, MN	Emergency 29999 Non-emergency (507) 440-7786
Arizona	(480) 342-0576

Eau Claire, WI	(715) 838-3994
Florida	(904) 953-2323
La Crosse, WI	(608) 392-2956 (Monday - Friday) (608) 498-1246 (All hours)
Mankato, MN	507-385-4801 or ext. 44801
Rochester, MN	Downtown location (507) 284-2179 TDD Line (Hearing Impaired) (507) 266-0564

St. Mary's location (507) 255-5108  
TDD Line (Hearing Impaired) (507) 255-1512

## Preservation of Evidence

- If you are the victim of sexual assault or relationship violence, do everything possible to preserve evidence by making certain that the crime scene is not disturbed.
- Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. As necessary to preserve evidence, victims of sexual violence or relationship violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical examination.
- It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc., rather than evidence of physical contact and violence.

## Related Documents

[Appeals Policy/Procedure](#) (Consulting Staff) - Arizona, Florida, Rochester

[Appeal Procedure](#) (Allied Health) - Arizona, Florida, Rochester

[Appeals Procedure Policy](#) (Allied Health) - SE MN Region

[Faculty Misconduct Policy](#)

[Faculty Misconduct Investigation and Appeal Procedure](#)

[Records Management and Retention Policy](#)

[Records Management and Retention Procedure](#)

Student Resource for Addressing Sexual Misconduct

[Title IX Sexual Misconduct Policy](#)

## Definitions

**Complaint:** an allegation of Sexual Misconduct reported to or filed with Mayo Clinic.

**Complainant:** the individual who files a report of having experienced sexual misconduct or on whose behalf a report is filed.

**Confidential Care and Support Resources:** individuals, who by the nature of their work, are required by law to keep information shared with them confidential and who cannot share information revealed to them without the express permission of the individual sharing the information. These individuals are prohibited by law from breaking confidentiality unless there is an imminent threat of harm to self or others or, in some cases, when a report involves suspected abuse of a minor under the age of 18. These campus and community professionals include medical providers, mental health providers, ordained clergy, rape crisis counselors, and attorneys.

**Investigator:** individual(s) designated by the Title IX Coordinator to investigate a particular complaint (and may include the Title IX Coordinator).

**Learner/Student:** an individual enrolled in the Mayo Clinic School of Health Sciences (MCSHS), Mayo Clinic Graduate School of Biomedical Science (MCGSBS), Mayo Clinic School of Graduate Medical Education (MCSGME), or Mayo Clinic School of Medicine (MCSOM).

**Parties:** the complainant and respondent.

**Preponderance of Evidence Standard:** A standard for determining facts under this policy that asks whether “it is more likely than not” that sexual misconduct occurred.

**Relationship Violence (Dating/ Domestic Violence):** an umbrella term that collectively refers to prohibited conduct under this policy regardless of the motivation behind the action and includes domestic violence and dating violence.

- **Domestic Violence:** acts of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

Relationship violence is prohibited by Minnesota, Arizona, Florida, and Wisconsin law. See Minn. Stat. § 518B.01, et seq.; A.R.S. § 13-3601 et seq.; Fla. Stat. § 741.28, et seq.; Wis. Stat. § 940.19 et seq.

**Respondent:** The individual against whom a report has been filed.

**Sexual Assault:** any actual or attempted sexual contact with another person without that person’s consent. As used in this policy, sexual contact includes intentional contact by the accused with the victim’s genital area, groin, inner thigh, buttocks, or breasts,

whether clothed or unclothed, or unlawfully coerced touching by the victim of another's genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed. Sexual assault is a crime under Minnesota, Arizona, Florida, and Wisconsin law. See Minn. Stat. § 609.341 et seq.; A.R.S. § 13-1406 et seq.; Fla. Stat. § 794.005, et seq.; Wis. Stat. § 940.225.

Sexual assault includes, but is not limited to, an offense that meets any of the following definitions:

- **Fondling:** The touching of the private body parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without consent.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without consent.
- **Statutory rape:** Sexual intercourse with a person who is under the statutory age of consent, as defined by state law

**Sex Discrimination:** occurs when persons are excluded from participation in, or denied the benefits of, any Mayo Clinic educational program or activity because of their sex. Sex discrimination also includes discrimination on the basis of pregnancy, gender identity, sexual orientation, and failure to conform to stereotypical notions of femininity and masculinity (i.e., gender stereotyping).

**Sexual and Gender-Based Harassment:** unwelcome conduct of a sexual nature and includes sexual advances, requests for sexual favors, and other verbal, physical, visual, or digital conduct of a sexual nature when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or
- Such conduct interferes with an individual's participation in Mayo Clinic programs or activities by creating what a reasonable person would perceive as an intimidating, hostile, or offensive educational environment. A hostile environment exists when unwelcome conduct of a sexual nature is sufficiently serious to deny or limit a person's ability to participate in or benefit from Mayo Clinic programs and activities.
  - In determining whether a hostile environment exists, Mayo Clinic will consider the totality of circumstances viewed from the perspective of a reasonable person in the alleged victim's position, including both objective and subjective factors. Examples of factors Mayo Clinic will consider include the type, frequency, and duration of the conduct, the severity of the conduct, whether the conduct is repeated, the age of the alleged victim, any power differential between the alleged victim and alleged perpetrator, and the number of persons involved.

- Harassment without an overt sexual component can also violate the law and this policy where it is shown that the harassment is directed at an individual because of the individual's sex, gender, gender identity, or sexual orientation. In determining whether alleged conduct constitutes sexual harassment, Mayo Clinic will look at the totality of the circumstances, such as the nature of the conduct and the context in which the alleged incidents occurred.
- Examples of Sexual Harassment
  - Pressure for a dating, romantic, or intimate relationship, or for sexual activity
  - Unwelcome touching, kissing, hugging, rubbing, or massaging
  - Unnecessary references to parts of the body
  - Sexual innuendos, jokes, humor, or gestures
  - Displaying sexual graffiti, pictures, videos, or posters
  - Using sexually explicit profanity
  - Asking about, or telling about, sexual fantasies, sexual preferences, or sexual activities
  - Social media use that violates this policy
  - Leering or staring at someone in a sexual way, such as staring at a person's breasts or groin
  - Sending sexually explicit emails or text messages
  - Commenting on a person's dress in a sexual manner
  - Giving unwelcome personal gifts such as flowers, chocolates, or lingerie that suggest the desire for a romantic relationship
  - Commenting on a person's body, gender, sexual relationships, or sexual activities
  - Harassing a male because he "isn't manly enough" or a female because she "is too manly"

**Sexual Misconduct:** an umbrella term that collectively refers to prohibited conduct under this policy and includes sexual discrimination, sexual and gender-based harassment, sexual assault, sexual exploitation, relationship violence, stalking, and retaliation.

**Stalking:** a course or pattern of two or more acts of unwelcome and unwanted conduct directed towards a specific person that would cause a reasonable person under the circumstances to feel frightened, threatened, oppressed, or intimidated or to suffer substantial emotional distress. Stalking is prohibited by Minnesota, Florida, Arizona, and Wisconsin law. See Minnesota Statutes Section 609.749; A.R.S. § 13-2923 et seq.; Fla. Stat. § 784.048; Wis. Stat. § 940.32.

- Stalking can include conduct that occurs via electronic communications, including social media (i.e., cyberstalking).

## **References**

[Family Educational Rights and Privacy Act \(FERPA\), 20 U.S.C. § 1232g; 34 C.F.R. Part 99](#)

[Title IX of the Education Amendments of 1972, 20. U.S.C. §1681](#)

Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89-92 (2013) (codified at 20 U.S.C.A. § 1092(f)(1)(F)(iii), § 1092(f)(8)(A)-(B))

State laws as cited herein

## **Effective Date Current Version**

10/05/2018