

Number: 017-0010
Title: Grievance Procedure for Allegations of Sexual Harassment Under Title IX
Revision Date: September 7, 2021
Responsible Party: Organizational Effectiveness

Practice Statement: This Grievance Procedure for Allegations of Sexual Harassment Under Title IX of the Educational Amendments of 1972 (“Title IX”) (the “Grievance Procedure”) is intended to provide rules, guidance, and procedures for the Johns Hopkins University Applied Physics Laboratory community for prompt and equitable resolution to allegations of sexual harassment in APL’s education programs and activities. This Grievance Procedure is designed to comply with federal and state laws and rules, and in the event of a disagreement between the law and this Grievance Procedure, the law shall govern.

Persons Affected: All APL Students, Interns, and Staff Members.

Practice

1. Reporting Allegations of Harassment or Sexual Misconduct

Any person may report allegations of sexual harassment in an APL education program or activity in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator as follows: Anisha Vasudeva, Anisha.vasudeva@jhuapl.edu, 240-592-1382

For the purposes of the Grievance Procedure, the following definitions apply:

- a. “Complainant” means any individual who has reported being or is alleged to be the victim of conduct that could constitute sexual harassment as it is defined under Title IX.
- b. “Formal Complaint” means a document, including an electronic submission, filed by a Complainant with a physical or digital signature, or signed by the Title IX Coordinator, alleging sexual harassment against a Respondent about conduct within APL’s education program or activity and requesting initiation of an investigation.
- c. “Respondent” means any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment as it is defined under Title IX.

Upon receiving a report of alleged sexual harassment, the Title IX Coordinator will promptly and confidentially contact the Complainant to explain the process for filing a Formal Complaint and discuss the availability of supportive measures to include measures such as:

- a. Counseling
- b. Extensions of deadlines or other course-related adjustments
- c. Modifications of work or class schedules
- d. Campus escort services
- e. Mutual restrictions on contact between the parties
- f. Changes in work or housing locations
- g. Leaves of absence
- h. Increased security and monitoring of certain areas of the campus

- c. A statement that the Respondent is presumed not responsible for the alleged conduct

- b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to APL's education program or activity; or
- c) Sexual assault, dating violence, domestic violence, or stalking.

b. Discretionary Dismissal

The Title IX Coordinator may dismiss a Formal Complaint or any allegations within such a Formal Complaint in the following three situations:

- 1) The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations within it;
- 2) The Respondent is no longer participating in an APL education program or activity and/or is no longer employed by APL; or
- 3) Specific circumstances prevent APL from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

5. Investigation of Formal Complaint

a. Referral of Investigation

At the time the Title IX Coordinator provides written Notice of Allegations to all known Complainants and Respondents, the Title IX Coordinator will also refer the investigation of the Formal Complaint to an appropriate internal or external Investigator. The Title IX Coordinator should consult with an attorney in APL's Office of the General Counsel to select an individual who is free of conflicts of interest and has received or will receive the training required under Title IX.

b. Consolidation of Formal Complaints

The Title IX Coordinator may consolidate Formal Complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

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- a) The Investigator will not solicit or consider information about the Complainant's sexual predisposition or prior sexual behavior, unless such information is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the information concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and is offered to prove consent.
 - b) The Investigator will not solicit or consider information concerning the romantic or sexual history of the Respondent other than (1) information concerning the parties' shared romantic or sexual history that is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; (2) information concerning specific incidents of the Respondent's prior sexual behavior with respect to the Complainant that is offered to prove consent; or (3) information concerning the Respondent's prior sexual history with someone other than the Complainant if deemed relevant to prove the source of injury or prior sexual misconduct, to show that an individual has an ulterior motive, or to impeach the Respondent's credibility after the Respondent has put their own prior sexual conduct at issue.
- 3) : The Investigator will generally not consider evidence of any prior incident, but the Investigator has discretion to consider evidence of any prior incident(s) that involved conduct substantially similar to the allegation(s) being investigated or demonstrates a common pattern of behavior.
 - 4) : The Investigator will not solicit or consider information concerning a party's mental health history, including any mental health diagnosis, counseling, or treatment, unless the party consents to the use of such information.
 - 5) : The Investigator 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 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 APL obtains that party's voluntary, written consent to do so.
 - 6) : If APL's investigation is delayed during the evidence-gathering stage of a concurrent law enforcement investigation, APL's investigation will resume promptly thereafter.
 - 7) : The Complainant and Respondent have equal access to advisors and support persons; any restrictions on advisor participation will be applied equally. Throughout the investigation and resolution process, each party has the right to choose and consult with an advisor, who may be any person, including an attorney. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the investigation and resolution of a report under the grievance process. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, they may not speak on behalf of the parties, submit written statements not attributed to the party, or otherwise participate in, or in any manner disrupt, such meetings and/or proceedings. APL will not unduly

delay the scheduling of meetings or proceedings based on the advisor's unavailability.

e. Party Review of Evidence File

After the fact-gathering process is complete, both parties will have an equal opportunity to review the evidence file, which includes any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. This includes evidence upon which the Investigator does not intend to rely in reaching a recommendation regarding responsibility, as well as inculpatory and exculpatory evidence obtained from a party or other source.

Prior to the completion of the investigative report, the Investigator will provide each party and any party advisor with electronic access to review and inspect the above-referenced evidence file. The parties will have ten (10) calendar days to submit a written response to the Investigator, if they choose. Any response to the evidence file submitted by a party will be made available to the other party and will become part of the evidence file unless the response is not directly related to the allegations raised in the Formal Complaint and the Investigator will consider the response(s) prior to completing the investigative report

f. Investigative Report

Upon completion of the fact-gathering process and consideration of any response to the evidence file review, the Investigator will consider all relevant evidence and prepare a report that fairly summarizes relevant evidence. The report will include the Investigator's recommended findings of fact, an assessment of credibility of the information provided, and a recommended determination as to whether the Respondent is responsible for the alleged violation(s) by a preponderance of the evidence.

At least ten (10) days prior to the Adjudicator's determination of responsibility, the Complainant and Respondent and any party advisor will be notified in writing of their right to review the investigative report and submit written comments to the Adjudicator. If either party chooses to submit written comments to the Adjudicator, these comments will be provided in full to the other party along with the final investigative report.

When the investigative report is submitted to the parties, the names and identifying information of other students/individuals will be redacted to the extent possible to protect privileged and confidential information. Once the Investigator determines that an investigation is complete, the Investigator will transmit the investigative report and the evidence file to the Adjudicator.

6. Determination Regarding Responsibility

a. Submission of Relevant Questions

Before reaching a determination regarding responsibility, the Adjudicator must afford each party the opportunity to submit relevant written questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. The Adjudicator must review all proposed questions and explain to the party proposing the questions any decision to exclude a question as

not relevant. In so doing, the Adjudicator will adhere to the same principles concerning relevance of prior sexual or romantic history as noted above in the Investigative Protocols.

b. Written Determination Regarding Responsibility

The Adjudicator will issue a written determination regarding responsibility applying the

