1/4/19



**ADMINISTRATIVE PROCEDURE**

# Sexual Misconduct Investigative Procedures for Student Respondents

1. The Dean of Students Office (DOSO) oversees undergraduate student conduct and the Office of Graduate Studies (OGS) oversees graduate student conduct except for minor infractions in campus housing. Tech’s Student Conduct Coordinator is a trained Title IX Investigator who conducts sexual misconduct investigations on behalf of the campus. When needed, the Title IX Coordinator assigns the Title IX Investigator to cases and oversees investigations.
2. The Title IX Coordinator determines jurisdiction within five (5) academic days of reviewing the complainant’s allegations. The Title IX office will only conduct an investigation with the consent of the complainant. In some cases, however, a report of a sexual misconduct may reveal there is an immediate threat to the health or safety of students or employees on campus or that an on‐going serious or continuing threat to the campus community exists, an Emergency Notification or a Timely Warning will be issued. The Title IX Coordinator will notify the complainant if there is a need for a campus-wide Emergency Notification (the complainant’s name will not be disclosed) or if an investigation will be conducted.
3. The Title IX office may be requested by campus or local law enforcement to delay their investigation or delay notifying the respondent/s until they have an opportunity to initiate their investigation, gather evidence, and talk to the complainant and any potential witnesses. Efforts will be made to minimize any delay. The University is required to conduct its own investigation of reported incidents regardless of whether the matter is reported to law enforcement. The Title IX Coordinator will notify the complainant of their right to report the incident to law enforcement.
4. The Title IX Coordinator will send notice to complainant/s of acceptance of jurisdiction and the name of the assigned investigator who will process the allegations. The complainant is informed of their right to bring one (1) advisor with them throughout the entire process.
5. The Title IX Investigator (“Investigator”) meets with complainant, if they have not already done so, to discuss procedural options. The Investigator in conjunction with the Title IX Coordinator will determine procedural options after considering complainant’s wishes, the nature of the allegations, and institutional responsibility. The Investigator engages in an interview process with the complainant to identify the specific alleged University policy violation/s the complainant wishes the Investigator to investigate. The Investigator also describes the process and provides the complainant with a written copy of their rights and responsibilities, and the University’s prohibition against retaliation.
6. If complainant or Title IX Coordinator elects to conduct a formal investigation, complainant is interviewed further, if needed, and a Confirmation of Allegations (COA) letter is drafted by Investigator and given to the complainant within ten (10) academic days of completing the interview.
7. The Investigator starts investigation of any early evidence preservation including surveillance video or electronic evidence.
8. Complainant has five (5) academic days to review and provide any necessary edits, additions or comments to the COA. The Investigator has five (5) academic days to provide the revised confirmation letter back to complainant, and then complainant has two (2) academic days to review and sign or email their approval of the confirmation letter.
9. Signature on or email approval of the confirmation letter indicates that the claim has been verified by complainant, and the investigation continues.
10. If complainant does not return the signed COA or an email acknowledging its acceptance or does not respond to Investigator communications, the Investigator accepts this as the complainant withdrawing the complaint for consideration for investigation. However, Title IX Coordinator reserves the right to take any action deemed necessary to ensure a working and learning environment free from harassment and discrimination.
11. The Investigator will notify the respondent/s by campus email to inform them of the reported incident, the Bringing of Charges, and the need for them to meet with the assigned investigator within five (5) academic days. The respondent is informed of their right to bring one (1) advisor with them throughout the entire process. This notification may be sent out earlier in the process if interim protective measures are needed to be implemented (e.g. rearrangement of campus housing, class assignments, etc.).
12. The Investigator interviews the respondent as contemporaneously as possible to interviewing complainant. The Investigator also describes the process, and provides the respondent with a written copy of their rights and responsibilities, and the University’s prohibition against retaliation.
13. When the interview process with respondent is complete and the specific response has been provided by respondent, the Investigator drafts and sends a Confirmation of Response (COR) to the respondent with a recitation of respondent’s response to the allegations complainant identified for investigation. The COR will be sent within ten (10) academic days after completing the interview process.
14. Respondent has five (5) academic days to review and provide any necessary edits, additions or comments. The Investigator has five (5) academic days to provide the revised confirmation letter back to respondent and respondent then has two (2) academic days to review and sign or email their approval of the confirmation letter.
15. If respondent does not return the signed COR or an email acknowledging its acceptance or does not respond to the Investigator communications, the Title IX office moves forward with its investigation, even if it does not have the respondent’s confirmed response to the allegations or other input from respondent. A Title IX office investigation where policy violations have been found may result in disciplinary action even without respondent participation. In some cases, an interim suspension from campus housing and/or from school may be implemented if the respondent does not reply to notification or if there are safety issues.
16. The Investigator continues the investigation. The Investigator determines scope of the investigation (in conjunction with the Title IX Coordinator), contacts witnesses, reviews documents, and other relevant evidence. Investigations typically take 30-45 academic days from the date of the receipt of the signed COA barring extenuating circumstances and case complexity. Significant delays in the investigation will be documented.
17. At the conclusion of the fact-finding portion of the investigation, the Investigator provides an Investigative Draft Report (IDR) to complainant(s) and respondent(s) simultaneously. The IDR Report includes the allegations, the responses, and a summary or description of the evidence gathered in the investigation.
18. The complainant(s) and respondent(s) have five (5) academic days to respond to the IDR with comments or new, factual information not included in the investigation.
19. After the parties have had the opportunity to review and provided comments and/or new, factual information regarding the Investigative Draft Report (IDR) or the deadline has passed (five [5] academic days) with no response from the parties, the Title IX Investigator makes a determination utilizing preponderance of the evidence (is it more likely than not) as a standard of proof as to whether there was a violation of NMT policy. The Investigator recommends sanctions, responsive actions and/or remedies based on the circumstances of the case at hand. The Investigator then submits the Investigative Report (IR), including any new comments or factual information provided by the parties, a determination regarding violation of policy, and recommended sanctions to Tech’s undergraduate or graduate Informal Student Adjudicator for a review of the decision in this informal resolution process. The informal student adjudicator is the Vice President of Student and University Relations (VPSUR) for undergraduate students, or the Dean of Graduate Studies (DGS) for graduate students.
20. See [Informal Resolution Process for Student Sexual Misconduct Cases](http://www.nmt.edu/titleix/Informal%20Resolution%20Process%20for%20Student%20Sexual%20Misconduct%20Cases.docx) for the related procedures.