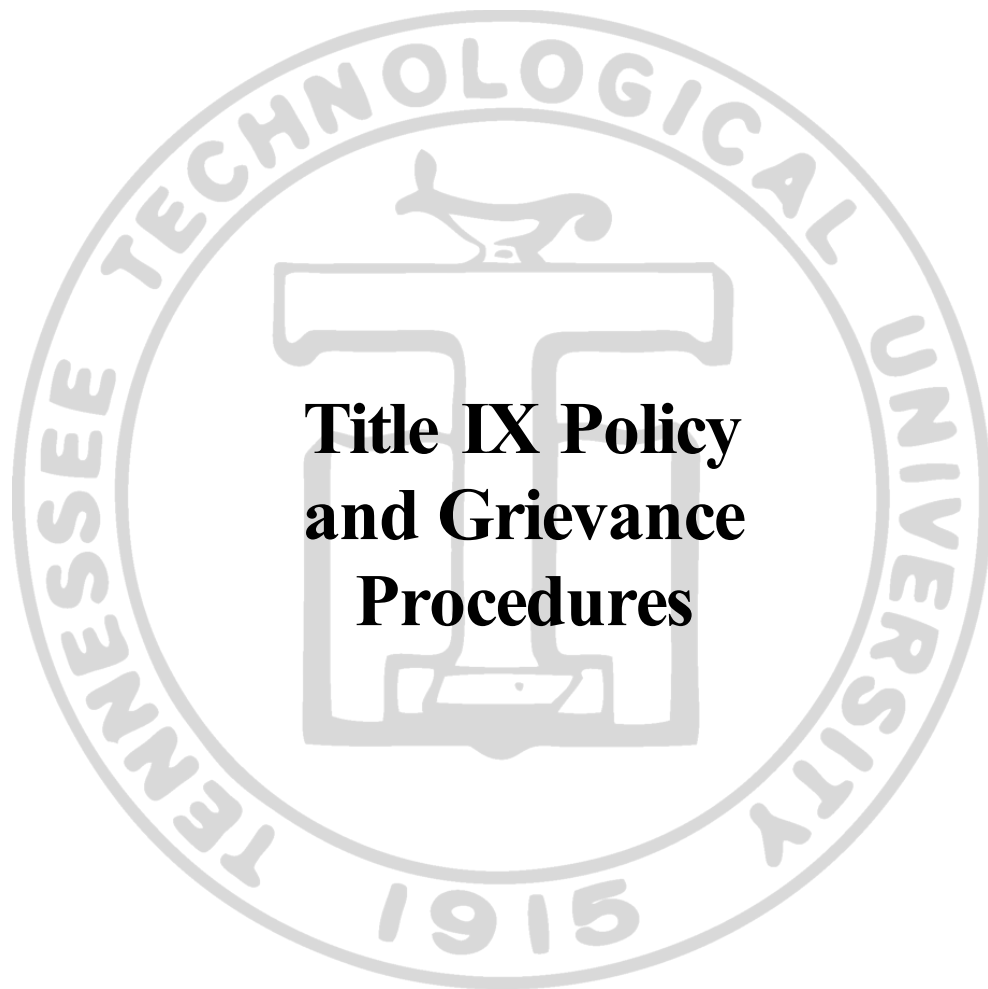


**Tennessee Technological University  
Policy No. 144**



**Title IX Policy  
and Grievance  
Procedures**

**Effective Date: August 14, 2020**

**Policy No:** 144

**Policy Name:** Title IX Policy and Grievance Procedures

**Revised Date:** September 29, 2020; August 1, 2021

The state regulation associated with this policy is Tennessee Tech Rule [0240-09-08](#). This regulation may be accessed on the Tennessee Secretary of State's website [sos.tn.gov](http://sos.tn.gov)

## **I. Purpose**

This policy is intended to provide a single, easily accessible, and user-friendly document for students, employees, and others affected by sexual harassment to find information regarding Tennessee Tech's rules and procedures related to the offenses defined herein.

## **II. Scope**

Allegations of prohibited discrimination or harassment not within the scope of this policy are subject to the procedures described in Tennessee Tech Policy 141 (Prohibited Discrimination and Harassment).

## **III. Definitions**

- A.** Actual knowledge -- notice of sexual harassment or allegations of sexual harassment to Tennessee Tech's Title IX Coordinator or any Tennessee Tech official who has authority to institute corrective measures on behalf of Tennessee Tech. This definition is not met when the only Tennessee Tech official with actual knowledge is also the respondent.
- B.** Complainant -- an individual who is alleged to be the victim of conduct that could constitute sexual harassment. Complainant does not mean the Title IX Coordinator when the Title IX Coordinator signs a formal complaint or is not otherwise an alleged victim of sexual harassment. References in this rule to the singular "complainant" include the plural, as applicable.
- C.** Consent -- a clear and unambiguous agreement, expressed outwardly through mutually understandable words or actions, to engage in agreed upon sexual activity. An individual who is asleep, unconscious, mentally or physically incapacitated either through the effect of drugs or alcohol or for any other reason, or who is under duress, threat, coercion, or force cannot give consent. Past consent does not imply future consent. Consent can be withdrawn at any time.
- D.** Dating violence -- as defined under [federal law](#) (34 U.S.C. 12291(a)(10)) <https://www.tntech.edu/titleix/definitions.php> .

- E.** Deliberately indifferent -- a response that is clearly unreasonable in light of the known circumstances.
- F.** Disciplinary Sanctions -- remedies and penalties that Tennessee Tech may impose upon a respondent following a determination of responsibility are as follows:
  - 1.** A student who violates this policy is subject to the disciplinary sanctions set forth in Tennessee Tech Policy 302, Student Conduct. These include:
    - a.** Informal Warning
    - b.** Official Warning
    - c.** No Contact Order
    - d.** Restitution
    - e.** Restriction of Privileges
    - f.** Educational Action
    - g.** Disciplinary Probation
    - h.** Housing Probation, Suspension or Cancellation of Housing Contract
    - i.** Other Interim Measures
    - j.** Expulsion
  - 2.** An employee who violates Tennessee Tech Policy 144, Title IX Policy and Grievance Procedures, is subject to the disciplinary sanctions set forth in Tennessee Tech Policy 650, Disciplinary Action. These include:
    - a.** Verbal or Written Warning
    - b.** Suspension with Pay
    - c.** Suspension without Pay
    - d.** Demotion

- e. Disciplinary Probation
  - f. Termination
3. Students or employees found guilty of violating this policy may also face criminal prosecution.
- G.** Domestic violence -- as defined under [federal law](https://www.tntech.edu/titleix/definitions.php) (34 U.S.C. 12291(a)(8)) <https://www.tntech.edu/titleix/definitions.php> .
- H.** Education program or activity -- locations, events, or circumstances over which Tennessee Tech exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by Tennessee Tech.
- I.** Formal complaint -- a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting Tennessee Tech investigate the allegation of sexual harassment. As used in this definition, the phrase “document filed by a complainant” means a document or electronic submission that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- J.** Hearing officer -- the person(s) who conducts the live hearing and is the decision-maker with respect to the determination of responsibility. A hearing officer cannot be the same person(s) as the Title IX Coordinator or the investigator(s).
- K.** Officials with Authority -- Tennessee Tech employees who have the authority to institute corrective measures to redress sexual harassment or allegations of sexual harassment on behalf of Tennessee Tech. Tennessee Tech Officials with Authority are:
- 1. The President
  - 2. The Title IX Coordinator
  - 3. The Dean of Students
  - 4. Associate Vice President of Human Resources
- L.** Respondent -- as defined under federal law, an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. References in this

rule to the singular “respondent” include the plural, as applicable.

- M.** Sexual assault -- as defined under [federal law](https://www.tntech.edu/titleix/definitions.php) (20 U.S.C. 1092(f)(6)(A)(v)) <https://www.tntech.edu/titleix/definitions.php> .
- N.** Sexual harassment -- conduct on the basis of sex that satisfies one or more of the following:
  - 1.** A Tennessee Tech employee conditioning the provision of an aid, benefit, or service of Tennessee Tech on an individual’s participation in unwelcome sexual conduct;
  - 2.** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Tennessee Tech’s education program or activity; or
  - 3.** Sexual assault, dating violence, domestic violence and stalking as defined by federal law.
- O.** Stalking – as defined under [federal law](https://www.tntech.edu/titleix/definitions.php) (34 U.S.C. 12291(a)(30)) <https://www.tntech.edu/titleix/definitions.php> .
- P.** Supportive measures -- non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to Tennessee Tech’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or Tennessee Tech’s educational environment, or deter sexual harassment. Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.
- Q.** Title IX Coordinator -- the person designated and authorized by Tennessee Tech to coordinate its efforts to comply with its Title IX responsibilities.

#### **IV. Policy**

- A.** As required by law, no student, employee, or applicant for admission or employment will be excluded, on the basis of sex, from participation in, be denied the benefit of,

or be subjected to discrimination under any Tennessee Tech education program or activity.

- B.** When a person reports sex discrimination committed against a person while in the United States, Tennessee Tech will follow its rules, procedures and processes used for Title VII sex discrimination allegations, which provide for the prompt and equitable resolution of complaints alleging sex discrimination.
- C.** If Tennessee Tech has actual knowledge of sexual harassment in an education program or activity committed against a person while in the United States, Tennessee Tech will respond promptly and follow its grievance procedures in a manner that is not deliberately indifferent.
- D.** If the allegations in a formal complaint do not meet the definition of sexual harassment, or did not occur in the school's education program or activity against a person while in the United States, Tennessee Tech will dismiss such allegations for purposes of Title IX but may still address the allegations in any manner deemed appropriate under all Tennessee Tech policies.
- E.** Where a person alleges both sex discrimination and sexual harassment committed against a person while in the United States, Tennessee Tech will follow its rules, procedures and processes for responding to a formal complaint of sexual harassment. If the formal complaint is dismissed at any point in the process, Tennessee Tech will follow its rules, procedures and processes used for Title VII sex discrimination allegations.
- F.** As required by law, Tennessee Tech will not restrict rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

## **V. Notification and Publication Requirements**

- A.** Tennessee Tech will notify applicants for admission and employment, students, and employees, that:
  - 1. It does not discriminate on the basis of sex in its education programs or activities and will provide the name, title, office address, electronic mail address, and telephone number of the Title IX Coordinator in that notification;
  - 2. Inquiries regarding the application of Title IX may be directed to the Title IX Coordinator, the U.S. Department of Education, or both;

3. Its grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how Tennessee Tech will respond; and
  4. The contact information for the Title IX Coordinator and its Title IX policies and procedures.
- B.** These notifications along with other information related to Title IX will be placed on Tennessee Tech's website and in each handbook or catalog that it makes available to applicants for admission and employment, students, and employees.
- C.** The Title IX Coordinator is responsible for coordinating the effective implementation of the notification and publication requirements.

## **VI. Confidentiality**

- A.** Tennessee Tech will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted or required by federal or state law, or to carry out the purposes of this rule and attendant policies, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.
- B.** Tennessee Tech will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality does not impair Tennessee Tech's ability to provide the supportive measures.

## **VII. Immediate Steps a Complainant Should Take After Sexual Assault**

- A.** In the immediate aftermath of a sexual assault, domestic violence, dating violence or similar event, the complainant should first get to a safe place and to call 911 if in immediate danger.
- B.** The complainant should next seek medical attention, regardless of whether a complainant has decided to report the crime to the police. It is very important for the complainant of sexual assault to seek medical attention immediately so that the complainant can be screened for sexually transmitted diseases/pregnancy/date rape drugs, obtain emergency contraception, and receive treatment for any physical injuries.

- C. The complainant has the right to accept or decline any or all parts of a medical exam. However, critical evidence may be lost or missed if not collected or analyzed.
- D. Valuable physical evidence can be obtained from the complainant's clothing. Every effort should be made to save anything that might contain the respondent's DNA. Therefore, if at all possible, a complainant of sexual assault should not:
  - 1. Bathe or shower;
  - 2. Wash his or her hands;
  - 3. Brush his or her teeth;
  - 4. Use the restroom;
  - 5. Change clothes;
  - 6. Comb hair;
  - 7. Clean up, move things, or change anything associated with the crime scene; or
  - 8. Move anything the offender may have touched.
- E. Regardless of whether the complainant has decided to report the crime, receiving a forensic medical exam and keeping the evidence safe from damage will improve the chances that law enforcement can access and test the stored evidence should the complainant choose to prosecute at a later date.
- F. The complainant is encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if any, that would be useful to investigators.

### **VIII. Reports of Sex Discrimination or Sexual Harassment**

- A. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX



Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

- B.** A report may be made at any time (including during non-business hours) to the Title IX Coordinator at 931-372-3112, [titleix@tntech.edu](mailto:titleix@tntech.edu), 1 William L. Jones Drive, Box 5037, Cookeville, TN 38505 or to the U.S. Department of Education, Office of Civil Rights, 800-421-3481, [OCR@ed.gov](mailto:OCR@ed.gov), 400 Maryland Avenue, SW, Washington D.C. 20202-1100.

## **IX. Supportive Measures**

- A.** Upon receipt of a report of sexual harassment or upon the filing of a formal complaint the Title IX Coordinator will promptly contact the complainant and:
  - 1.** Discuss the availability of supportive measures;
  - 2.** Consider the complainant's wishes with respect to supportive measures;
  - 3.** Inform the complainant of the availability of supportive measures with or without the filing of a formal complaint; and
  - 4.** Explain the process for filing a formal complaint.
- B.** In cases where a formal complaint is filed, and an investigation is commenced, Tennessee Tech will offer supportive measures to the respondent as well.
- C.** Mutual restrictions on contact between the parties may be obtained through the Title IX Coordinator.
- D.** In cases where a formal complaint is filed Tennessee Tech may remove a respondent from an education program or activity on an emergency basis only after the Title IX Coordinator, in consultation with appropriate personnel, undertakes an individualized safety and risk analysis, determining 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 providing the respondent with notice and an opportunity to challenge the decision immediately following the removal.
- E.** Tennessee Tech may place a non-student employee respondent on administrative leave during the pendency of a grievance process.
- F.** The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

## **X. Grievance Procedures**

**A.** Regarding its grievance procedures, Tennessee Tech will:

- 1.** Apply its grievance procedures and requirements equally to both parties;
- 2.** Presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;
- 3.** Apply a preponderance of the evidence standard throughout the grievance process;
- 4.** Assume the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility;
- 5.** Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence and prohibit credibility determinations based on a person’s status as a complainant, respondent, or witness;
- 6.** Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following its grievance process before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent;
- 7.** Design remedies to restore or preserve equal access to Tennessee Tech’s education program or activity. Such remedies may include supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;
- 8.** Provide the parties 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; however, the advisor may not participate in the proceeding other than to render advice to the party or to cross examine the other party or witnesses during a live hearing;
- 9.** Provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate;
- 10.** Provide parties written notice of the grievance process, including informal resolution; and

11. Ensure that the Title IX Coordinator, investigator, hearing officer, or decision-maker does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.

**B. Timeframe for the Grievance Process**

Tennessee Tech will make reasonable efforts to conclude the grievance process, including the investigation, hearing and appeal within ninety (90) calendar days following receipt of the complaint, absent good cause. The anticipated timeframe for the investigation hearing appeal or informal resolution are:

1. Investigation -- 45 calendar days
2. Hearing -- 30 calendar days
3. Appeal (if applicable) -- 15 calendar days
4. Informal Resolution (if applicable) -- 30 calendar days

**XI. Formal Complaint**

- A. Only a complainant or the Title IX Coordinator may file a formal complaint.
- B. If Title IX Coordinator files a formal complaint, the Title IX Coordinator is not considered a complainant or a party during a grievance process.
- C. A formal complaint must contain:
  1. the complainant's physical or digital signature, or otherwise indicate that the complainant is the person filing the formal complaint; and
  2. a written notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time; sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.
- D. Upon receipt of the formal complaint, Tennessee Tech will provide the parties written notice of the allegations potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment, and the date and location of the alleged incident, if known.

- E.** In addition, the written notice to the parties shall include statements that:
- 1.** The respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility will be made at the conclusion of the grievance process;
  - 2.** The parties may have an advisor of their choice, who may be, but is not required to be, an attorney; however, the advisor may not participate in any investigative interview or proceeding other than to render advice to the party or to cross examine the other party or witnesses during the live hearing;
  - 3.** The parties may inspect and review evidence; and
  - 4.** Identifies any provision in its codes of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.
- F.** If, during the course of an investigation, Tennessee Tech decides to investigate allegations about the complainant or respondent that were not included in the initial written notice, Tennessee Tech will provide notice of the additional allegations to the parties.
- G.** Tennessee Tech 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.
- H.** Tennessee Tech may dismiss a formal complaint or any allegations therein, if at any time during the investigation, a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by Tennessee Tech; or specific circumstances prevent Tennessee Tech from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- I.** If Tennessee Tech dismisses a formal complaint during the investigation, Tennessee Tech will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.
- J.** If the conduct alleged in a formal complaint would not constitute sexual harassment even if proved, did not occur in Tennessee Tech's education program or activity, or did not occur against a person in the United States, Tennessee Tech must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not, however, preclude action under another provision of Tennessee Tech's codes of conduct or other policies.

## **XII. Investigative Reports**

- A. Tennessee Tech will investigate, to the extent necessary or possible, the allegations in a formal complaint and create an investigative report that fairly summarizes relevant evidence.
- B. During the investigatory process, both parties will have an equal opportunity to:
  - 1. Present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence; and
  - 2. Inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which Tennessee Tech does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.
- C. Tennessee Tech will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.
- D. Prior to completion of the investigative report, Tennessee Tech will:
  - 1. Send the investigative report along with the evidence subject to inspection and review in an electronic format or a hard copy to each party and the party's advisor, if any;
  - 2. Allow the parties 10 business days to submit a written response to the investigative report, which the investigator will consider prior to completion of the investigative report; and
- E. At the conclusion of 10 business days, the Title IX Coordinator will send the investigative report along with the evidence subject to inspection and review in an electronic format or a hard copy to the Hearing Officer.

## **XIII. Formal Complaint Hearing**

- A. A live hearing of formal complaints not dismissed will be conducted by a hearing officer that meets the requirements set forth in Tennessee Code Annotated Section 4-5-324.

- B.** Live hearings may be conducted with all parties physically present in the same geographic location or, at Tennessee Tech's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- C.** Either party may request that the live hearing to occur with the parties located in separate rooms with technology enabling the hearing officer and parties to simultaneously see and hear the party or the witness answering questions.
- D.** Tennessee Tech will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.
- E.** At least seventy-two (72) hours prior to a live hearing, Tennessee Tech will provide both parties with written notice of the following:
  - 1.** The time, place, and date of the hearing and electronic access information, if applicable;
  - 2.** The name of each witness Tennessee Tech expects to present at the hearing and those Tennessee Tech may present if the need arises;
  - 3.** Their right to request a copy of the investigative file; and
  - 4.** Their right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that Tennessee Tech has in its possession, custody, or control and may use to support claims or defenses.
- F.** When notice is sent by United States mail or courier service, the notice is effective on the date that the notice is mailed or delivered to the courier service. When notice is hand delivered to the parties from the institution, notice is effective on the date that the notice is delivered to the parties. When notice is sent by email, the notice is effective on the date that the email is sent to the parties' institution-provided email account.
- G.** The hearing officer may allow a temporary delay of the grievance process 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 reasons for the action. Good cause may include but is not limited to considerations such as the absence of a party, a party's advisor or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.
- H.** In cases that involve more than one respondent, the hearing officer may, consistent with the requirements of Title IX, consider whether separate proceedings are necessary to avoid undue prejudice to the respondents.

- I.** During the hearing, the hearing officer will make evidence subject to review and inspection during the investigation phase available to give each party equal opportunity to refer to that evidence, including for purposes of cross-examination.
- J.** 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.
- K.** Only relevant cross examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the hearing officer will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- L.** The hearing officer will 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.
- M.** Notwithstanding any limitations to the contrary that Tennessee Tech has placed on the advisor's participation in the hearing, the hearing officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.
- N.** If a party does not have an advisor at the live hearing, Tennessee Tech will provide without fee or charge to that party an advisor of Tennessee Tech's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party
- O.** The hearing officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- P.** The hearing officer may dismiss the formal complaint or any allegations therein, if at any time during the hearing a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein, the respondent is no longer enrolled or employed by Tennessee Tech, or specific circumstances prevent Tennessee Tech from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

- Q.** If the hearing officer dismisses the formal complaint during the grievance process, the hearing officer will promptly notify the Title IX Coordinator who will promptly send written notice of the dismissal and reason(s) therefore simultaneously to the parties.

#### **XIV. Determination of Responsibility**

- A.** The hearing officer will issue a written determination regarding responsibility simultaneously to the parties. The written determination will include:
- 1.** The allegations potentially constituting sexual harassment;
  - 2.** A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
  - 3.** The findings of fact supporting the determination;
  - 4.** The conclusions regarding the application of Tennessee Tech's rules, policy and if applicable, code of conduct to the facts;
  - 5.** A statement of, and rationale for, the result as to each allegation, including a determination of responsibility, any disciplinary sanctions Tennessee Tech imposes on the respondent, and whether remedies designed to restore or preserve equal access to Tennessee Tech's education program or activity will be provided to the complainant; and
  - 6.** The procedures and permissible bases for the complainant and/or respondent to appeal.

#### **XV. Appeals**

- A.** Both parties may appeal a determination of responsibility or the dismissal of a formal complaint or any allegations therein.
- B.** A party wishing to appeal a determination or the dismissal must file a written appeal with the Title IX Coordinator within 10 business days of the date of the determination or dismissal. The written appeal must identify the basis or bases for the appeal and explain with specificity the facts supporting the basis or bases of the appeal.
- C.** The following are the only bases for an appeal:
- 1.** A procedural irregularity affected the outcome of the matter;



2. New evidence that could affect the outcome of the matter that was not reasonably available at the time the determination or dismissal was made; and
  3. A conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent by the Title IX Coordinator, investigator(s), or hearing officer that affected the outcome of the matter.
- D.** As to all appeals, the Title IX Coordinator will:
1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
  2. Ensure that the decision-maker(s) for the appeal is not the same person as any investigator(s) or the hearing officer that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
  3. Ensure that the decision-maker(s) for the appeal complies with the standards set forth in Section X.
- E.** If a party is a student, the Vice President for Student Affairs is the appeal decision maker. If a party is an employee, the Vice President for Planning and Finance is the appeal decision maker,
- F.** The respective Vice President will issue a written appeal decision describing the result of the appeal and the rationale for the result within the anticipated timeframe, absent good cause.
- G.** The Title IX Coordinator will provide the written appeal decision simultaneously to both parties.

## **XVI. Informal Resolution**

- A.** After the filing of a formal complaint, the Title IX Coordinator may facilitate the informal resolution process, such as mediation, that does not involve a full investigation and adjudication. The informal resolution process may go forward only if the Title IX Coordinator:
1. Obtains the parties' voluntary, written consent to the informal resolution process;
  2. Provides to the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be

shared; and

3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- B. Prior to agreeing to an informal resolution, a party may withdraw from the informal resolution process and resume grievance procedures with respect to the formal complaint.
  - C. Tennessee Tech will ensure that an individual designated to facilitate an informal resolution process does not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent.
  - D. The informal resolution process will conclude within 30 days of the parties agreeing to participate, absent good cause.
  - E. Tennessee Tech will not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment.

## **XVII. Retaliation**

- A. Neither Tennessee Tech nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.
- B. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this rule, constitutes retaliation.
- C. The exercise of rights protected under the First Amendment does not constitute retaliation.
- D. Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process does not constitute retaliation. However, a determination regarding responsibility, alone, is insufficient to conclude that any party made a materially false statement in bad faith.

**E.** Complaints alleging retaliation may be filed with the Title IX Coordinator who will follow the procedures and processes used for Title VII retaliation allegations as set forth in Tennessee Tech Policy 141, Prohibited Discrimination and Harassment.

**F.** Retaliation will result in disciplinary measures up to and including termination or expulsion.

### **XVIII. Interpretation**

The Tennessee Tech Compliance Officer or his/her designee has the final authority to interpret the terms of this policy.

### **XIX. Citation of Authority for Policy**

T.C.A. § 49-8-203(a)(1)(E); Tennessee Tech Policy 006 (Nondiscrimination Policy); Title IX of the Education Amendments of 1972 and its regulations, Section 485(f) of the Reauthorization of Education Act as amended, by Section 304 of the Violence Against Women Reauthorization Act of 2013; 34 CFR § 668.41, § 668.46, and Appendix A to Subpart D of Part 668.

**Approved by:** President on June 17, 2020, September 2, 2020 and December 22, 2021 pursuant to Policy 101, Section VII.A.

Board of Trustees: June 23, 2020; September 29, 2020; March 10, 2022

### **Received by:**

Administrative Council: September 2, 2020; September 30, 2020; January 26, 2022

University Assembly: November 18, 2020; April 20, 2022