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TITLE IX POLICY OVERVIEW





TITLE IX POLICY OVERVIEW

Freed-Hardeman University is committed to providing a safe and non-discriminatory learning, living, and working environments for all members of the University community (students, faculty, and staff) in a Christ-centered setting resting on core values, which are based on Scripture. We have a federal – and biblical – obligation to prevent and address complaints of sexual harassment and assault.

Our respect for other individuals includes an appreciation of cultural backgrounds different from our own, an understanding of different attitudes and opinions, and an awareness of the consequences of our actions on others. Because of our high value on the life and safety of each member of the University community and in compliance with Title IX of the Education Amendments of 1972 (“Title IX”), the Jeanne Cleary Act (Cleary Act), the Campus Sexual Violence Elimination Act (SaVE Act), and the Violence Against Women Reauthorization Act (VAWA), Freed-Hardeman University has adopted policies and procedures to specifically prevent and respond to incidents of sexual harassment, including sexual assault, domestic violence, dating violence, and stalking.

These guidelines apply to all members of the University community (students, faculty, and staff) as well as third party contractors and visitors. Freed-Hardeman University will not tolerate sexual harassment, including sexual assault, domestic violence, dating violence, or stalking, as defined in the Title IX Policy.

A. SCOPE

Freed-Hardeman University prohibits sex discrimination as defined under Title IX, unless an appropriate religious exemption applies. This Policy governs the conduct of students, faculty, and staff. The Policy applies to Freed-Hardeman University's education programs and activities. This Policy covers any violation of Title IX that discriminates based on sex.

While Freed-Hardeman University is committed to the principles of free inquiry and expression, the discrimination, harassment, and sexual misconduct prohibited by this Policy are neither legally protected expression nor the proper exercise of academic freedom.

B. STATEMENT OF VALUES RELATED TO TITLE IX

The preamble to Title IX of the Education Amendments of 1972 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." Freed-Hardeman University prohibits conduct as described in the preamble to Title IX, except for circumstances when a religious exemption applies and such conduct is inconsistent with and contrary to Freed-Hardeman University's mission and core values. It is Freed-Hardeman University's Policy not to discriminate based on sex as set forth in Title IX, unless an appropriate religious exemption applies. Freed-Hardeman University strictly prohibits retaliation as stated herein.

All violations of prohibited conduct under this Policy will result in discipline, including potential separation from the University. Some forms of prohibited conduct may also violate state and federal laws, and criminal prosecution may occur independently of any disciplinary action Freed-Hardeman University may impose. Freed-Hardeman University prohibits discrimination on the basis of sex in any of its educational or employment programs or activities, and Freed-Hardeman University will not tolerate discrimination or harassment because of sex, unless an appropriate religious exemption applies.

This Policy sets forth the process that Freed-Hardeman University will use to investigate and respond to reports of Prohibited Conduct or violations of this Policy or Title IX. Freed-Hardeman University will respond to reports of alleged violations with measures designed to eliminate the conduct, prevent its recurrence, and remedy any adverse side effect of the conduct of individuals, members of the University community, or related programs or activities. In addition, Freed-Hardeman University may implement interim measures before the conclusion of an investigation designed to provide the Complainant and/or Respondent with continued access to University programs and activities, and protect individual and campus safety.

C. NOTICE OF NON-DISCRIMINATION

It is the Policy of Freed-Hardeman University to prohibit unlawful discrimination and harassment against any member of its community based on the individual's sex. As a religious institution, Freed-Hardeman University retains the right to make employment, admission, and education decisions on the basis of its Christ-centered focus and interpretation of Scripture, consistent with its Community and Core Values.

D. TITLE IX COORDINATOR

The Title IX Coordinator (or Deputy Title IX Coordinator acting as the Title IX Coordinator's Designee) is responsible for coordinating the University's compliance with Title IX and related provisions of other applicable statutes, such as related provisions of the Clery Act as amended by the Violence Against Women Act (VAWA). The Title IX Coordinator oversees Freed-Hardeman University's response to all reports of Prohibited Conduct to assure consistent application and implementation of this Policy and applicable state and federal laws. The responsibilities of the Title IX Coordinator include, but are not limited to:

- Assist Complainants in identifying the appropriate University policy or policies and procedures for resolution of the allegation in a prompt and equitable manner.
- Ensure overall Title IX compliance including review of applicable University policies to ensure institutional compliance with applicable state and federal laws.
- Oversee the Deputy Title IX Coordinators and other designees as appropriate.
- Serve as the central clearinghouse for all sexual harassment/sexual misconduct allegations that arise in the University community to assure consistent and equitable application and implementation of all policies.
- Coordinate education and prevention efforts including oversight of training for the University community regarding Title IX related provisions of the Clery Act (as amended by VAWA) and prohibited conduct defined in this Policy.
- Monitor the University's administration of its own applicable policies, including record keeping, adherence to deadlines, and other procedural requirements.
- Respond to any report regarding conduct that may violate this Policy. The Title IX Coordinator oversees the investigation and resolution of such alleged misconduct, directs the provision of any remedial and protective measures, and monitors the administration of any request for an appeal.
- Ensure proper training of those charged with implementation of the Policy, including, but not limited to the Coordinator, Deputy Coordinator, Investigators, Decision Makers, and anyone who facilitates an informal resolution process.
- Implement any remedies effectively.

The Title IX Coordinator may delegate responsibilities under this Policy to designated administrators or external professionals who have appropriate training or experience.

The contact information for the Title IX Coordinator and Deputy Coordinators are listed in the following section under "Reporting Options."

E. REPORTING OPTIONS

Freed-Hardeman University identifies all non-confidential faculty, staff, students, and visitors as Mandatory Reporters (see Section F definition below). As such, Mandatory Reporters are expected to report potential violations to the Title IX Coordinator or Deputy Coordinators.

Anyone can make a report of an alleged violation as follows:

1. **Option 1:** A report may be made online using the Title IX Incident Report Form, which is available on the Title IX Resource Page on Freed-Hardeman University's website. All reports are automatically forwarded to the Title IX Coordinator and Deputy Coordinators.

2. **Option 2:** A report may be made to one of the following individuals in person, by mail, by email, or by phone:

TJ Kirk, Title IX Coordinator for Students

Vice President of Student Services
158 East Main Street, Box 711
Henderson, Tennessee 38340
731-989-6386 | TJkirk@fhu.edu

Jay Satterfield, Title IX Coordinator and Investigator for Faculty and Staff

Director of Human Resources
158 East Main Street
Henderson, Tennessee 38340
731-989-6769 | ludson@fhu.edu

When initiating either option, an individual does not need to know whether they wish to request any particular course of action or how to label what happened. Freed-Hardeman University will provide supportive measures to the Complainant and/or Respondent at no cost. After receiving a report, the Title IX Coordinator will promptly communicate with the Complainant to discuss supportive measures and explain the process for filing a formal complaint.

Title IX complaints under this Policy operate independently of and separate from any other applicable University policy or discipline or law enforcement investigation.

Emergency medical assistance and campus safety/law enforcement assistance are available both on and off campus. Individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident that may pose a threat to safety or physical well-being or following a potential criminal offense.

To contact law enforcement:

- Freed-Hardeman University Safety and Security: (731) 989-6911
- Henderson Police Department: (731) 989-5404

To access on-campus medical treatment contact:

- Freed-Hardeman University Student Health Services

F. DEFINITIONS

For the purposes of this Policy the following terms are defined as:

1. **Prohibited Conduct** - refers to actions taken in violation of this Policy or Title IX.
2. **Complainant** - refers to an individual who is alleged to be the victim of Prohibited Conduct, regardless of whether the individual makes a report or seeks disciplinary action.
3. **Respondent** - refers to an individual who has been reported to be the perpetrator of Prohibited Conduct.
4. **Witness** - refers to an individual who may have information relevant to a report of Prohibited Conduct. A witness may be a student, staff member, faculty member, or a third party unaffiliated with Freed-Hardeman University.
5. **Reasonable Person** - refers to a reasonable person under similar circumstances and with similar identities to the individual.
6. **Substantial Emotional Distress** - refers to significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling or interfere with one's normal daily activities and relationships.
7. **Actual Knowledge** – refers to knowledge of sexual harassment or allegations of sexual harassment on the part of any administrator or other official of the University who has authority to institute corrective measures, including the Title IX Coordinators.
8. **Mandatory Reporters** – refers to individuals who, upon having Actual Knowledge, as defined above, must report the sexual harassment or allegations of sexual harassment to the Title IX Coordinators or Deputy Title IX Coordinators.

G. TITLE IX PROCESS

Certain guiding principles apply to the processing of a Title IX report or complaint of Prohibited Conduct under this Policy at Freed-Hardeman University.

1. Those members of the Freed-Hardeman University community who participate in the Title IX process will be free of any conflict of interest or bias. If a Complainant or Respondent believes the Title IX Coordinator, Investigator, Decision Maker, Advisor, or other member of the University community has a conflict of interest or bias, the Complainant or Respondent should report such to the Title IX Coordinator or one of the Deputy Coordinators. As soon as the potential conflict or bias becomes known, the

Title IX Coordinator will make a determination on the validity of the alleged conflict of interest or bias. If the Title IX Coordinator determines the allegations of a conflict of interest or bias are valid, the Coordinator will take steps necessary to resolve the situation. In the event the Title IX Coordinator is alleged to have a conflict of interest or bias, one of the Deputy Coordinators will investigate the alleged conflict of interest or bias and, if appropriate, remediate the situation.

2. Will provide equitable treatment to the Complainant and Respondent.

3. Freed-Hardeman University will presume that the Respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the grievance process.
4. All members of the Freed-Hardeman University community who participate in the process as a Coordinator, Investigator, Decision Maker, Advisor, or other role as sanctioned by the University shall receive adequate and unbiased training.
5. Mandatory reporters will immediately report discrimination, harassment, and sexual misconduct or allegations of such conduct directly to a Title IX Coordinator or Deputy Title IX Coordinator using the Title IX Incident Report Form.
6. Freed-Hardeman University will process the report or complaint in a reasonably timely manner.
7. Freed-Hardeman University will not determine a person's credibility based upon that person's status as a Complainant, Respondent, or Witness.
8. Freed-Hardeman University's investigation of a report or complaint of alleged misconduct will be based on an objective evaluation of the relevant evidence.

H. RETALIATION

Freed-Hardeman University prohibits retaliation. Neither Freed-Hardeman University nor any 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 its regulations, 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 under this Policy or Title IX.

Conduct such as 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 informal or formal complaint of sex discrimination, or sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, constitutes retaliation.

If anyone feels that he or she has been retaliated against, the person may file a complaint alleging retaliation in accordance with the grievance procedures herein for sexual harassment.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding as provided for in this Policy does not constitute retaliation prohibited under this Policy. However, a determination regarding responsibility, alone, is insufficient to conclude that a party made a materially false statement in bad faith. For example, if a Complainant files a formal complaint alleging sexual harassment under Title IX and there is a determination at the conclusion of the process that sexual harassment did not occur, that determination alone is insufficient to conclude that the Complainant made a materially false statement in bad faith.

I. CONSOLIDATION OF COMPLAINTS

Freed-Hardeman University may consolidate formal complaints as to the 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.

J. CONFIDENTIALITY

To the extent permitted by law, the confidentiality of all parties involved in the resolution of alleged or suspected violations of this Policy will be observed, provided that it does not interfere with the University's ability to conduct an investigation and take any corrective action deemed appropriate by Freed-Hardeman University.

In some cases, an individual may disclose conduct that would violate this Policy to a non-confidential source but wish to maintain confidentiality or request that no investigation into a particular incident be conducted. The University must weigh such requests against Freed-Hardeman University's obligation to provide a safe, non-discriminatory environment for all members of the University community. Although rare, there are times when Freed-Hardeman University may not be able to honor an individual's request for confidentiality.

The Title IX Coordinator, or designee, is responsible for evaluating requests for confidentiality. When weighing an individual's request for confidentiality or that no investigation or sanction be pursued, the Title IX Coordinator will weigh the totality of the circumstances to determine whether there is a risk of the alleged perpetrator(s) committing additional acts of discrimination, harassment, or sexual misconduct. Examples of such circumstances include, but are not limited to, the following: other complaints about the same alleged perpetrator, a history of prior similar behavior from the alleged perpetrator, a report that the alleged perpetrator threatened further harm, a report that gives reason to believe that the alleged perpetrator may be likely to cause future harm, a report that the incident was committed by multiple perpetrators, or a report that the incident reveals a pattern or perpetration at a given location or by a particular group.

The presence of one or more of the circumstances described above could lead Freed-Hardeman University to investigate and, if appropriate, pursue sanctions pursuant to this Policy despite an individual's request for confidentiality and/or that no investigation be conducted. If the University determines that it cannot maintain an individual's confidentiality or uphold a request that the complaint not be investigated, Freed-Hardeman University will inform the individual prior to the start of the investigation and will, to the extent possible, limit the information shared during the grievance process set forth in the Policy.

K. RECORDKEEPING

Freed-Hardeman University will maintain all required records pursuant to the obligations and time periods prescribed by Title IX and its regulations, currently seven (7) years.

L. REMEDIES-BASED SOLUTIONS

Remedies-based solutions are non-adjudication approaches designed to address the behavior of concern without taking disciplinary action against a Respondent. Where the Title IX Coordinator concludes that remedies-based solutions may be effective at stopping the conduct, addressing its effects, and preventing recurrence without a formal investigation and determination of a university policy violation, Freed-Hardeman University will take immediate and corrective action through the imposition of individual and community remedies. Freed-Hardeman will apply remedies-based solutions in a manner compliant with all applicable state and federal laws and regulations.

Examples of potential remedies may include, but are not limited to:

1. Interim measures;
2. Targeted and/or broad-based training and educational programming for relevant individuals or groups;
3. Communication with the Respondent by the Title IX Coordinator or a University administrator; or
4. Any other remedy that will achieve the goals of the Policy. For example, in some instances, notifying a party that certain actions or language are offensive and requesting that the actions or language stop will heighten awareness and accomplish the objectives of the Policy.

In some circumstances, mediation or joint conflict resolution may also be an appropriate method for remedies-based resolution.

Freed-Hardeman University will not compel a Complainant or Respondent to engage in mediation, to directly communicate with one another, or to participate in any particular form of remedies-based solution. Participation in remedies-based solutions is voluntary, and the parties can request to end their participation in remedies-based solutions at any time. However, the Title IX Coordinator may determine that additional remedies-based steps (e.g., community remedies involving targeted training) are appropriate without the participation of the parties.

M. AMNESTY

Freed-Hardeman University encourages and expects students to abide by the University's Policies. Freed-Hardeman University recognizes that students will make independent decisions about their own conduct. Freed-Hardeman University prioritizes the reporting of violations of this sexual harassment Policy and a Complainant, Respondent, or Witness making a report of sexual harassment or other conduct violating this Policy will not be charged with student conduct violations related to the student Policies, regardless of the outcome. Similarly, Freed-Hardeman University will not pursue disciplinary actions against a Complainant, Respondent, or Witness for disclosure of personal consumption of alcohol or other drugs (under age or illegal) when the disclosure is made in connection with a good faith report or investigation of Prohibited Conduct and the personal consumption did not place the health or safety of any other person at risk.

N. GOOD SAMARITAN AMNESTY POLICY

The welfare of students in the Freed-Hardeman University community is of paramount importance. Freed-Hardeman University promotes bystander intervention and encourages students to offer help and assistance to others in need. Students should not hesitate to offer assistance to others for fear that they may get in trouble themselves. Freed-Hardeman University has instituted a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the University will focus on educational responses to those who offer their assistance to others in need, serve as witnesses to an incident, or make a good faith report of alleged misconduct. This policy does not protect students from the consequences associated with Tennessee law. Freed-Hardeman University encourages members of the University community who experience or witness any form of sexual misconduct to report the act to the University and/or law enforcement. Under no circumstances will a Complainant or Witness who makes a report of sexual assault or other Prohibited Conduct be charged with violating the University's values, regardless of the outcome. Freed-Hardeman University's desire is to assist the Complainant, to care for individuals in need and to seek justice. Should a student experience severe intoxication or a drug related reaction while attending an event hosted by a University organization, representatives or members of that organization are expected to promptly call for medical assistance. This act of responsibility will mitigate the judicial consequences against the organization resulting from student community value violations that may have occurred at the time of the incident.

TITLE IX SEXUAL HARASSMENT POLICY

A. SCOPE

This section of the Title IX Policy describes the process to be used for allegations of misconduct that fall under the definition of “sexual harassment” as found in the following paragraph B.

B. DEFINITION OF SEXUAL HARASSMENT UNDER TITLE IX

Sexual Harassment as defined under this Policy is conduct on the basis of sex that satisfies one or more of the following:

1. An employee of Freed-Hardeman University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or education, status in a position of employment or an academic course or program, or participation in any educational program or activity of the University (“quid pro quo” harassment);
2. Unwelcome verbal, visual, or physical conduct of a sexual nature, determined by a reasonable person to be so severe, pervasive, and objectively offensive, that it effectively denies a person equal access to Freed-Hardeman University's education program or activity by creating a hostile environment;
3. **Sexual Assault** as defined in 20 U.S.C. § 1092(f)(6)(A)(v). Sexual Assault (as defined in the Clery Act) includes dating violence, domestic violence, and stalking as defined in the Violence Against Women Act (VAWA) – see below. Sexual assault is a particular type of sexual harassment that includes physical sexual acts perpetrated when consent is not present, where a person is incapable of giving consent (incapacitated), or coercion and/or force is used. This includes criminal sexual contact, non-consensual sexual intercourse or penetration, and non-forcible sexual intercourse, which the Policy defines as follows:
 - Criminal sexual contact (or attempts to commit the same) is the intentional touching of a person's body parts (including bodily fluids) when consent is not present or coercion and/or force is used, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This includes not only direct contact, but also contact through clothing and /or with an object. It also includes causing or inducing a person, when consent is not present, to similarly touch, fondle, or contact oneself or another.
 - Non-consensual sexual intercourse or penetration (or attempts to commit the same) is any penetration of the sex organs or anus of another person or penetration of the mouth of another with one's sex organs when consent is not present or coercion or force is used. This includes penetration or intrusion, however slight, by an object or any part of the body.
 - Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
 - Non-forcible sexual intercourse with a person who is under the statutory age of consent, which is 18 years old in Tennessee.
4. As explained further below, sexual assault includes sexual contact, intercourse, and/or penetration while knowing or having reason to know that the individual was incapacitated due to alcohol and/or drug consumption or was otherwise unable to consent due to disability, being unconscious, including being asleep, and being under the statutory age of consent (18 years old in Tennessee). Inducing incapacitation for sexual purposes includes using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as “consent” is defined in this Policy) is strictly forbidden.
5. **Dating Violence** as defined in 34 U.S.C. § 12291(a)(11). Also, dating violence is violence or the threat of violence by a person with whom the individual is or has been in a social relationship of a romantic or intimate nature. Whether such a relationship exists will be gauged by its length, type, and the frequency of interaction;
6. **Domestic Violence** as defined in 34 U.S.C. § 12291(a)(12). Also, domestic violence is violence committed by the current or former spouse, intimate partner, current or former cohabitant of the individual, by someone with whom the individual shares a child in common, or violence against anyone else protected under the domestic or family violence laws of the jurisdiction in which the violence occurred; or
7. **Stalking** as defined in 34 U.S.C. § 12291 (a)(36). Also, stalking is a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or suffer substantial emotional distress. For the purposes of this definition, “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Examples of stalking include, but are not limited to, the following behaviors:
 - Pursuing or following someone or waiting uninvited near a place where a person frequents;
 - Being or remaining in close proximity to a person;
 - Surveillance or other types of unreasonable observation, including staring or peeping;
 - Trespassing or vandalism;
 - Threatening (directly or indirectly) a person;
 - Gathering information about an individual from friends, family, or others;
 - Non-consensual communication, including face-to-face communication, telephone call, voice messages, text messages, emails, written letters, gifts, or any other communication that are undesired; and
 - Use of online, electronic, or digital technologies, including posting of pictures online, sending unwanted/unsolicited email or chat requests, posting private or public messages on social media sites, installing spyware on someone's computer, or using GPS to monitor a person.

C. CONSENT, COERCION AND INCAPACITATION

Freed-Hardeman University promotes a biblical sexual ethic that reserves consenting intimate sexual expression within a marriage between a man and a woman. Intimate sexual expression outside the biblical boundary of marriage may increase the risk of miscommunication about consent. As we live and work in the University community, we recognize that we may at times fall short of these biblical standards. However, this Policy establishes standards for identifying when such intimate sexual expression violates Freed-Hardeman University's standards for ensuring the safety and well-being of all members of the University community.

1. **Consent** is voluntary, informed, and mutual, and may be withdrawn at any time. Refusal to consent does not have to be verbal; it can be expressed with gestures, body language, or attitude. However, silence, including a lack of verbal or physical resistance or submission resulting from the use or threat of force, coercion, manipulation, or intimidation, does not constitute consent. Likewise, a person's manner of dress, consent to prior sexual activity, consent to sexual activity with a different person, or relationship status with the person does not constitute consent. It is the responsibility of the initiator of any sexual activity to ensure that he or she has the other person's consent before engaging in sexual activity.

A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent. Sexual contact with anyone who is under the legal age of consent (18 years old in Tennessee), is asleep or unconscious, or who the person knows or reasonably should know is incapacitated due to consumption of alcohol, drugs, medication, or a mental or physical impairment is a violation of this Policy. People who are unconscious or physically unable to communicate are assumed to be incapable of giving consent for purposes of this Policy.

2. **Coercion** is to force a person to act based on fear of harm to self or others. Means of coercion may include, but are not limited to, pressure, threats, emotional intimidation, a power differential between the parties, and/or the use of physical force.
3. **Incapacitation** means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, disability, and/or being under the legal age of consent, which impact the ability of an individual to provide legal consent. Incapacitation is determined by how the alcohol or other drugs consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. Because incapacitation may be difficult to discern, individuals should err on the side of caution. Being intoxicated or drunk is never a defense to a complaint of sexual misconduct under this Policy.

D. REPORTING AND ASSESSMENT

After receiving a report of an allegation of violation of this Policy, the Title IX Coordinator will gather information about the reported conduct and respond to any immediate health or safety concerns raised by the report. The Title IX Coordinator will assess the Complainant's safety and well-being, offer the University's immediate support and assistance, and assess the nature and circumstances of the report to determine whether the reported conduct raises a potential Policy violation, whether the reported conduct is within the scope of this Policy, and the appropriate manner of resolution under this Policy. The Title IX Coordinator may implement interim measures, if appropriate. Freed-Hardeman University will offer supportive measures to the Complainant and Respondent without fee or charge. Supportive measures are designed to restore or preserve equal access to Freed-Hardeman's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties, or Freed-Hardeman University's educational environment, and to deter sexual harassment. Supportive measures may include, but are not limited to, counseling, extension 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, increase of security, or monitoring of certain areas of campus.

As part of the initial assessment, the Title IX Coordinator, when applicable to the specific situation presented, will:

- Assess the nature and circumstances of the report, including whether it provides the names and/or any other information identifying the Complainant, the Respondent, any Witness, and/or any other individual with knowledge of the reported incident;
- Address immediate physical safety and emotional well-being;
- Notify the Complainant of the right to seek medical treatment;
- Notify the Complainant of the importance of preservation of evidence;
- Communicate necessary details of the report to the Freed-Hardeman University Security Office who will enter the report into the University's daily crime log if required by the Clery Act; and will assess the reported conduct and discern the need for a timely warning under the Clery Act and any other reporting request under state and federal laws;
- Provide the Complainant with written information about on- and off-campus resources;
- Notify the Complainant of the range of interim measures available, including the right to reasonable interim remedial measures regardless of whether they choose to participate in a Freed-Hardeman University led or law enforcement directed investigation;
- Notify the Complainant and Respondent of the range of interim protective measures available if an investigation occurs;
- Provide the Complainant with an explanation of the procedural options available for filing a formal complaint;
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding (e.g., confidentiality concerns);
- Assess for any pattern of conduct by the Respondent; and
- Explain the University's Policy prohibiting retaliation, that Freed-Hardeman University will take prompt action when retaliation is reported, and how to report acts of retaliation.

When the Title IX Coordinator initiates an investigation, imposes interim protective measures, or takes any other action that affects a Respondent, the Title IX Coordinator will notify the Respondent, offer supportive measures equivalent to those offered and provided to Complainant without charge, and provide written information on available resource and options, consistent with the list outlined above, as applicable to the specific situation presented.

E. COORDINATION WITH OTHER POLICIES

This section of the Policy addresses violations of Title IX “sexual harassment” as defined by this Policy in Section II paragraph B. Complaints of sexual harassment or sexual misconduct that do not meet the definition set forth in Section II may be violations of other Freed-Hardeman University policies found in the Student Handbook, Faculty Handbook, Staff Handbook, or other applicable University policies. The Title IX Coordinator or designee will assist the Complainant in identifying the appropriate University policy or policies and procedures for resolution of the complaint in a prompt equitable manner.

F. FILING OF FORMAL COMPLAINT

1. A formal complaint is a written physical or electronic document signed by an alleged victim (Complainant) of sexual harassment (as defined by this Policy) or the Title IX Coordinator or Deputy Title IX Coordinator alleging sexual harassment against a Respondent and specifically requesting an investigation of the sexual harassment. To file a complaint, the Complainant must be participating in or attempting to participate in Freed-Hardeman University’s education program or activity. If a Complainant elects not to pursue a formal complaint, the Title IX Coordinator can sign a complaint to initiate a grievance process only when it is not clearly unreasonable under the facts and circumstances.
2. If at any point during the investigation Freed-Hardeman University determines that the conduct alleged in the formal complaint:
 - Does not constitute sexual harassment under Title IX, even if proven;
 - Did not occur in Freed-Hardeman University’s education program or activity; or
 - Did not occur against a person in the United States, federal legal mandates require Freed-Hardeman University to dismiss the formal complaint for purposes of its Title IX grievance procedure. However, Freed-Hardeman University has the discretion to address the alleged conduct under other University policies and procedures.
3. Freed-Hardeman University may dismiss a formal complaint if at any time during the investigation or hearing:
 - The Complainant notifies the Title IX Coordinator in writing that he/she wishes to withdraw the complaint or any allegations therein;
 - The Respondent is no longer enrolled or employed by Freed-Hardeman University;
 - Specific circumstances prevent Freed-Hardeman University from gathering evidence sufficient to reach a determination as to the complaint or any of the allegations; or
 - The alleged conduct did not occur on Freed-Hardeman University’s properties and had no connection to a University education program or activity.
4. If a formal complaint is dismissed for any of the above reasons, the Title IX Coordinator, or designee, will promptly send written notice of the dismissal and the reason(s) for the dismissal simultaneously to the Complainant and Respondent.

G. NOTICE OF FILING A FORMAL COMPLAINT

Upon receipt of a formal complaint, Freed-Hardeman will prepare a written notice of the filing of a formal complaint, and provide the notice to the Complainant and Respondent. The notice will include:

1. Freed-Hardeman University’s Title IX grievance process, along with information about the potential for an informal resolution process;
2. The allegations of an alleged case of sexual harassment, containing sufficient details known at the time of preparation of the written notice providing Respondent with sufficient time to prepare a response before any initial interview by the Investigative Team;
3. A statement that the Respondent is presumed not responsible for the alleged conduct, unless and until, a determination regarding responsibility is made at the conclusion of the grievance process;
4. Information that the Complainant and Respondent may have an Advisor of their choice (who may be an attorney) to participate in the investigation process, such as attending interviews or meetings. Freed-Hardeman University retains the ability to limit the role of the Advisor in the proceedings so long as it does so equally for both parties;
5. Information that the Complainant and Respondent have a right to inspect and review evidence no later than 10 days before the completion of the investigative report; and
6. References to Freed-Hardeman University’s policies that prohibit a person from knowingly making false statements or knowingly submitting false information during the grievance process.

If, during the course of an investigation, Freed-Hardeman University expands its investigation beyond allegations included in the original written notice of the filing of the formal complaint, the University will provide written notice of the additional allegations to the Complainant and Respondent as soon as practically possible.

If, after conducting an individualized safety and risk analysis, Freed-Hardeman University determines there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifying physical removal of Respondent, Freed-Hardeman University is authorized to make an emergency removal of a Respondent from the University’s education program or activity. However, Freed-Hardeman University will provide the Respondent with notice and an opportunity to appeal the decision immediately following the removal.

Likewise, Freed-Hardeman University may place a Faculty or Staff Respondent on administrative leave during the pendency of a grievance process.

H. INFORMAL RESOLUTIONS

Once a formal complaint is filed, Freed-Hardeman University's Title IX Coordinator, or designee, will offer the parties an Informal Resolution Process. The Informal Resolution Process is not available when a student alleges prohibited conduct by a member of the Faculty or Staff. Freed-Hardeman University will provide a written notice disclosing the allegations, the requirements of the Informal Resolution Process, including the circumstances under which successful completion of the Informal Resolution Process 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 shared.

The Complainant and Respondent must provide Freed-Hardeman University with signed written consent forms memorializing their voluntary and consensual agreement to participate in the Informal Resolution Process. Agreement to participate in the Informal Resolution Process places the grievance process on "hold," allowing the parties to attempt a resolution without having to complete the entire investigative and adjudicative process. The Title IX Coordinator, or designee, may facilitate this process through mediation or other similar techniques. At any time before agreeing to a resolution, any party may withdraw from the Informal Resolution Process and resume the grievance process.

I. GRIEVANCE PROCEDURE

1. Investigative Phase

- a. Following submission of a formal complaint, the Title IX Coordinator, in consultation with the Deputy Coordinators, will appoint an appropriate investigative team from a standing pool of trained investigators ("the Investigative Team"). The Investigative Team, with oversight from the Title IX Coordinator, will initiate an investigation of the allegations contained in the filed formal complaint. Additionally, if, in the discretion of the Title IX Coordinator and Deputy Coordinators, circumstances warrant, an external investigator may be retained.
- b. The burden of proof applicable to this grievance process is "preponderance of the evidence" which means that the evidence demonstrates that it is more likely than not that the Respondent violated this Policy or Title IX. Freed-Hardeman University has the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility.
- c. The Investigative Team will provide Complainant and Respondent an equal opportunity to submit fact and expert witnesses and other inculpatory and exculpatory evidence for consideration.
- d. The Investigative Team will conduct the investigation in a fair and impartial manner as determined by the allegations asserted in the complaint based upon the discretion of the trained Investigative Team. The Investigative Team will not restrict the Complainant or Respondent's ability to discuss the allegations under investigation with it or to gather and present relevant evidence to it.
- e. The investigation will be conducted as promptly and in as reasonable a time period as possible when balanced against Freed-Hardeman University's desire to provide the Complainant and Respondent the benefit of a fair, equitable, and impartial process.
- f. Before completing an investigative report, the Investigative Team will send each Complainant and Respondent, and the parties' Advisors, if any, the evidence subject to inspection and review in an electronic format or a physical paper copy. The Complainant and Respondent will have at least ten (10) business days to submit a written response, should they choose to do so, which the Investigative Team will consider before completing its investigative report. The evidence submitted to the Complainant and Respondent must include any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal written complaint (or supplemental allegations), including evidence upon which Freed-Hardeman University does not intend to rely on to reach a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Complainant or Respondent or another source.
- g. At the completion of its investigation and after allowing the Complainant and Respondent to review the evidence as outlined above, the Investigative Team will prepare an investigative report that fairly summarizes relevant evidence. At least ten (10) business days before the grievance hearing, the Investigative Team will send the report to the Complainant and Respondent, and the parties' Advisors, if any, for their review and written response. In addition, the Investigative Team will send its report to the Title IX Coordinator.
- h. If during its investigation the Investigative Team conducts an interview or meeting that the Complainant or the Respondent is expected to attend (e.g., an interview of the Complainant or Respondent), the Investigative Team will provide written notice of the date, time, location, identity of the participants, and the purpose of the interview or meeting. The Investigative Team will provide the written notice in sufficient time for the Complainant or Respondent to prepare to participate. During the investigation, the parties cannot attend investigative interviews of the other party. For example, if the Investigative Team gives notice to the Respondent of its desire to meet with the Respondent to review the allegations of the complaint, the Complainant is not allowed to attend. Likewise, the Respondent is not allowed to attend the Complaint's interview.

2. Grievance Hearing

- a. Once the Title IX Coordinator receives the investigative report, the Coordinator will, in consultation with the Deputy Coordinators, appoint a decision making team from a standing pool of trained decision makers ("Decision Making Team"). The Title IX Coordinator and Deputy Coordinators, in their discretion, may appoint an individual from the Freed-Hardeman University community or a third party to serve as a non-voting member of the Decision Making Team. This individual may, but is not required to, have legal training in order to assist the Decision Making Team in conducting the hearing and ruling on evidentiary issues.
- b. The Title IX Coordinator will set a hearing date in a reasonable and prompt manner in consideration of the nature and complexity of the Formal Complaint.
- c. Freed-Hardeman University will conduct an in person hearing; however, at the request of either party, Freed-Hardeman will provide the parties with separate rooms and utilize appropriate technology so that the decision makers and parties may simultaneously see and hear the other parties and witnesses in real time.
- d. Each party's Advisor will have the opportunity to ask the other party and all witnesses relevant questions and follow

up questions, including those bearing on credibility. Examination of witnesses, including cross-examination, must be conducted by the party's Advisor of choice and never by the party personally. If a party is unable to or does not obtain an Advisor, Freed-Hardeman University must provide one free of charge for the purpose of conducting cross examination for the party. The Advisor does not have to be, but may be, an attorney, at the discretion of Freed-Hardeman University.

- e. The Decision Making Team will preside at the hearing. The Decision Making Team is responsible for conducting an orderly hearing in a manner, which in the discretion of the Decision Making Team is fair and equitable to the parties.
- f. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Decision Making Team must determine whether a question posed is relevant. The Decision Making Team, in the real time, must explain its decision to exclude a question as irrelevant.
- g. Questions and evidence about the Complainant's sexual predisposition or past sexual behavior are not relevant, unless such questions and evidence about the Complainant's past 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.
- h. The Decision Making Team 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 the party provides voluntary, written consent.
- i. The Decision Making Team cannot 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.
- j. The hearing will be recorded (either audio, video, or both) and made available to the parties for inspection and review. All documents and exhibits will be preserved by the Decision Making Team and made available to the parties for inspection and review. The recording of the hearing and all documentation introduced at the hearing and the written decision will be maintained by the Title IX Coordinator upon completion of the hearing.
- k. Even if a party or Witness does not submit to cross examination at the hearing, the Decision Making Team will still consider any statements of that party or witness when reaching a determination regarding responsibility. Further, the Decision Making Team cannot draw any inference about the determination regarding responsibility based solely on the party or witnesses absence from the hearing or refusal to answer a question.
- l. The Decision Making Team will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence.
- m. Following the conclusion of the hearing, the Decision Making Team will prepare a written decision within 15 business days of the conclusion of the hearing. The written decision will include the following:
 - i. Identification of the allegations potentially constituting sexual harassment;
 - ii. A description of the procedural steps taken from 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;
 - iii. Findings of facts supporting the determination;
 - iv. Conclusions regarding the application of Freed-Hardeman University's applicable Policies to the facts;
 - v. A statement of and rationale for determination of responsibility in regard to each allegation;
 - vi. Any disciplinary sanctions imposed by Freed-Hardeman University on the Respondent;
 - vii. Whether the remedies that are designed to restore or preserve equal access to Freed-Hardeman University's education program or activity will be provided by the University to the Complainant; and
 - viii. Freed-Hardeman University's procedures and permissible basis for appeal.

The Decision Making Team will submit its written decision to the Title IX Coordinator who in turn will immediately provide the written decision to Complainant and Respondent simultaneously via electronic communication and by U.S. Mail at Complainant and Respondent's last known e-mail and physical addresses.

3. Appeal

- a. Either the Complainant or Respondent can appeal a determination regarding responsibility made by the Decision Making Team or Freed-Hardeman University's dismissal of a Formal Complaint of any allegations individually dismissed.
 - i. To institute an appeal, the Complainant or Respondent must submit a signed written request to appeal to the Title IX Coordinator and the opposing party within ten (10) business days of the date of the written decision of the Decision Making Team.
 - ii. The appealing party is to provide a copy of the notice of appeal by electronic means and U.S. Mail to the other party.
 - iii. Complainant and Respondent have ten (10) business days from the date the notice of appeal is sent to them to submit to the Title IX Coordinator a written statement in support of or challenging the ruling of the Decision Making Team.
- b. Grounds for Appeal - Either the Complainant or Respondent can appeal a decision based on the following grounds:
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. Newly discovered evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made that could have affected the outcome of the matter;
 - iii. A participant in the process (Title IX Coordinator, an Investigator, a Decision Maker) had a conflict of interest or bias for or against Complainant or Respondent that affected the outcome of the matter;
 - iv. A determination that the written decision issued was contrary to the preponderance of the evidence; or
 - v. A determination that the Decision Making Team either improperly allowed or disallowed introduction of material evidence that could have affected the outcome.
- c. Appellate Decision Making Process
 - i. The President of Freed-Hardeman University decides all appeals. In the event the President is the Respondent or has a conflict of interest or bias, the Provost and Vice President for Academic Affairs will stand in the place of the President in regard to the appeal process. The President is the final decision making authority in the appeal process.
 - ii. The President will review the hearing record (audio and/or video recording of the hearing) and all matters submitted

to the Decision Making Team, including, but not limited to, the investigative report, the written decision of the Decision Making Team, and the written statements submitted by the Complainant and Respondent in support of or challenging the outcome of the Decision Making Team's written decision).

- iii. The hearing record will be provided to the President within ten (10) business days from the expiration of the deadline for Complainant and Respondent to submit written statements on appeal.
- iv. The President will issue a written determination on the appeal. The President can affirm, reverse, or alter the written decision of the Decision Making Team if a review of the record supports the decision made by the President.
- v. The President will issue a written determination providing the decision of the appeal and the rationale in support of the decision within 20 business days of the President's receipt of the record.
- vi. The written appeal of the President will be provided to the Complainant, Respondent, and Title IX Coordinator via electronic communication and by United States Postal Service at the Complainant and Respondent's last known email and physical address.

J. CONTINUANCES

Circumstances may occur in which a temporary delay of the grievance process or for a limited extension of the deadlines in the grievance process is required. Such delays or extensions can occur for good cause. Freed-Hardeman University must provide written notice to the Complainant and Respondent of the delay or extension and the reason for it. Good cause may include, but is not limited to, the absence of a party, a party's advisor, or witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

K. SANCTIONS, CORRECTIVE ACTIONS AND REMEDIES

The University will take reasonable steps to prevent the recurrence of any Title IX violations and correct the discriminatory effects on the Complainant (and others, if appropriate). Sanctions, corrective actions, and remedies that may be imposed in the event of a violation of the Policy include the following:

- a. Written warning.
- b. Written or verbal apology.
- c. Community service.
- d. Meetings with a predetermined faculty or staff member for personal accountability as determined in Freed-Hardeman University's discretion.
- e. Mandatory training, educational programming, or counseling.
- f. Parental notification.
- g. Financial restitution.
- h. Residence Life (e.g., housing) Probation or Suspension.
- i. Institutional Scholarships Probation or Suspension.
- j. University Probation or Suspension.
- k. Expulsion from the University.
- l. Removal from housing or other University programs, activities, student employment, or leadership positions.
- m. Issuing a "no contact" order or other contact restrictions or boundaries between the parties or others, including potential alteration of classes or class schedules.
- n. Temporary or permanent restrictions regarding entering certain buildings, areas of campus, or access to campus more generally (e.g., a "No Trespass Order," which prohibits individuals from being present on any University property).
- o. Performance improvement/management process (employees only).
- p. Suspension of employment (faculty, staff and student workers, with or without pay).
- q. Termination of employment with the University (faculty, staff and student workers).



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