

OIED NOTES:

Student Rights and Resources

The Office of Inclusion, Equity, and Diversity (OIED) serves the Health Science Center employees and students in the areas of affirmative action, equal employment opportunity and compliance, Title IX prevention and education, and training development.

DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINTS

OIED is guided by various federal statutes that prohibit discrimination based on one's protected class status. **Protected classes include race, color, sex (including sexual harassment, sexual assault, and sexual violence), sexual orientation, gender identity, pregnancy, marital status, parental status, religion, national origin, age, disability, or veteran status.** OIED is responsible for investigating all claims of discrimination and sexual harassment. The subsequent pages will provide you with information about the signs of sexual harassment and relevant UTHSC policies and procedures.

FILING A COMPLAINT

If you believe that you have experienced discrimination or sexual harassment, the UTHSC Complaint Procedure provides guidance on how to use the Formal Discrimination Complaint Form (both located on OIED's website). Complaints must be put in writing and filed within 180 calendar days (Title VI; Title IX) or 300 calendar days (Title VII) of the alleged discriminatory action. In certain circumstances, at the discretion of OIED, complaints filed outside this time limit or that are not put in writing may be investigated.

STUDENT CONDUCT ADMINISTRATION

The Associate Director of Student Affairs for Conduct and Community Standards and Student Conduct Officer is the initial contact for student conduct issues. Upon receipt of any reports, the Student Conduct Officer may conduct an investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved. Students who allegedly may have violated the Student Conduct Code in the CenterScope Student Handbook or violated civil laws or University regulations or policy will be appropriately advised of their rights and given a fair opportunity to provide evidence and facts for consideration.

Student conduct that falls under the scope of UTHSC's *Student Code of Conduct* or *Policy on Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking* may be referred to the Office of Inclusion, Equity, and Diversity.

The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA/V institution in the provision of its education and employment programs and services.



FEDERAL LAWS GUIDING OIED

- Title IV, Title VI, and Title VII of the Civil Rights Act of 1964
- Title IX of the Education Amendments of 1972
- Americans with Disabilities Act (ADA)
- Section 504 of the Rehab Act of 1973

Periodically, you will receive information from the Office of Inclusion, Equity, and Diversity (OIED) regarding various policies, procedures and resources applicable to UTHSC students. The heading of the email will be "OIED NOTES: Student Rights and Conduct," and this edition will cover the overall role of OIED at UTHSC.

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uthsc.edu/oied

Telecommunications Device for the Deaf
t 901.448.7382



THE UNIVERSITY OF
TENNESSEE
HEALTH SCIENCE CENTER.

INCLUSION, EQUITY,
AND DIVERSITY

REPORT COMPLAINTS OF SEXUAL HARASSMENT TO ANY OF THE FOLLOWING:

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Deputy Title IX Coordinator for GME Knoxville
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Geoffrey Smallwood, MD
Deputy Title IX Coordinator for GME Nashville
615.284.5555 | geoffrey.smallwood@ascension.org

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Pamela Scott
Deputy Title IX Coordinator for GME Chattanooga
423.778.7442 | Pam.Scott@erlanger.org

UTHSC Campus Police
Available 24/7 in cases of sexual assault
901.448.4444

CONFIDENTIAL CONTACT OPTIONS:

UTHSC University Health Services
901.448.5630, 8:00 am – 5:00 pm (M – F)
901.541.5654, After Hours, 24/7

Student Assistance Program
800.327.2255 (Option 3) 24/7

Employee Assistance Program
855.437.3486

Licensed Counselors (SASSI)
901.448.5056
uthsc.edu/sassi/resources/counseling.php

Title IX is the federal protection against sexual harassment and gender discrimination in any education program or activity. UTHSC's **POLICY ON SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING** policy and UT policy enforce this law. The statements listed below are summaries of UTHSC policies; please see the OIED website for complete versions.

POLICY ON SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING

The University of Tennessee Health Science Center is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from Sexual Harassment (including Sexual Assault, Domestic Violence, Dating Violence, and Stalking), Sexual Exploitation, and Retaliation (collectively, "Prohibited Conduct"). Prohibited Conduct will not be tolerated and will be grounds for disciplinary action up to and including expulsion from the University and termination of employment. Additional information about each campus' procedures and training and prevention programs relating to Prohibited Conduct can be found online at uthsc.edu/oied/documents/title-ix.pdf

UT SEXUAL HARASSMENT POLICY

The University of Tennessee unequivocally opposes the sexual harassment of any University community members. Sexual harassment will not be tolerated and will be grounds for disciplinary action. In accordance with federal regulations, sexual harassment is defined as follows: (1) An employee of the University conditioning the provision of an aid, benefit, or service of the University 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 the University's education program or activity; or (3) Sexual assault, dating violence, domestic violence, or stalking.

MANDATORY REPORTERS

All UTHSC employees, aside from those designated as confidential resources, are mandatory reporters. This includes trainees and affiliated employees. Any instance of sexual misconduct reported to an employee must be reported to the Title IX Coordinator or one of his Deputies.

REQUEST FOR LIMITED ACTION

When the University receives notice of a potential incident of Prohibited Conduct, the Title IX Coordinator will communicate with the Complainant about the following:

- Supportive measures, like academic support, safety escorts, no-contact directives, and campus support services, that the University can take in order to support the Complainant
- On and off-campus resources that the Complainant can access for assistance.

If the Complainant declines to respond to outreach or states that they do not wish to file a formal complaint or participate in an investigation, the University will generally take Limited Action.

If the Complainant makes a Request for Limited Action, the Title IX Coordinator will seriously weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all members of the University community, including the Complainant. If the Title IX Coordinator honors the Request for Limited Action, then the University's ability to respond fully to the incident may be limited.

HOW TO FILE A FORMAL COMPLAINT:

Prohibited Conduct, as defined in the **Policy On Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, And Stalking** may be reported to any Title IX Official identified in the university **policy**. After receipt of a report of Prohibited Conduct, the Title IX Coordinator (or designee) will contact the complaining party to explain the process for filing a complaint.

The complaining party may choose to pursue an **Informal or Formal** complaint. These are two official University complaints of discrimination and/or harassment, that are not mutually exclusive.

A **Formal Complaint** is a document filed by the Complainant (or, in some circumstances, signed by the Title IX Coordinator) alleging Prohibited Conduct against a Respondent and requesting that the University investigate the allegations.

A Complainant may file a **Title IX Prohibited Conduct Complaint** in a case involving allegations that a Respondent's conduct constitutes Sexual Harassment in the University's education program or activity in the United States as defined in 34 C.F.R. 106.30(a) ("Title IX Allegations"). For Title IX Allegations, the University's "education program or activity" includes locations, events, or circumstances over which the University 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 the University. If a Complainant files a Title IX Prohibited Conduct Complaint, the University must investigate the allegations.

A Complainant may file a **Non-Title IX Prohibited Conduct Complaint** in a case in which the Prohibited Conduct did not occur in the University's education program or activity or did not occur in the United States but would, if proven, violate the Code (i.e., allegations of misconduct in a study abroad program or off-campus misconduct committed against another member of the University community).

INFORMAL PROCESS:

The objective of the Informal Complaint process is to reach a mutually acceptable resolution, facilitated by the Office of Inclusion, Equity, and Diversity (OIED). There is no official determination as to whether the respondent has violated University policy. If the parties are unable to reach a mutually acceptable resolution during the Informal process, the complainant may then file a Formal complaint.

OIED will not facilitate an informal resolution process without both parties' agreement, and will obtain their voluntary, written consent. OIED will provide to the parties a written notice disclosing the allegations, as well as the requirements of the informal resolution process, including the circumstances under which the parties cannot resume the investigation or Title IX Hearing process arising from the same allegations.

By law, when the Complainant is a student, the University is not permitted to resolve a Title IX Prohibited Conduct Complaint through an informal resolution. At any time prior to agreeing to an informal resolution, any party has the right to withdraw from the informal resolution process and resume the investigation and Title IX Hearing process.

FORMAL HEARING PROCESS:

In **Non-Title IX Prohibited Conduct** cases that do not result in a determination that no action will be taken, and, in all Title IX Prohibited Conduct cases, the cases will

proceed to a Formal Hearing. Section VIII of the Student Code of Conduct describes the types of Formal Hearings that will be used in cases of Prohibited Conduct.

A **Non-Title IX Prohibited Conduct Complaint** may be resolved by a hearing before a hearing examiner or hearing panel, or, in some cases, a hearing under state law, the Uniform Administrative Procedures Act. Sections VIII of the Student Code of Conduct describes the process for those hearings. The University generally concludes these hearings with a decision within thirty (30) business days of the end of the investigation.

A **Title IX Prohibited Conduct Complaint** must be resolved through the Title IX Hearing process unless the parties agree to an Informal Resolution. The Chief Student Affairs Officer will appoint a Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their advisors.

A Notice of Hearing is sent to the Complainant and Respondent at least ten (10) business days prior to the hearing the hearing date. The University will provide the respondent with (1) the date, time, and location of the hearing; (2) notice of right to have an advisor of the party's choice; (3) notice that any cross-examination of any other party or witness must be conducted by the advisor, and never by a party personally; and (4) notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing.

The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their advisors, if any, to discuss any pre-hearing issues.

At the request of either party, the Student Conduct Officer will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

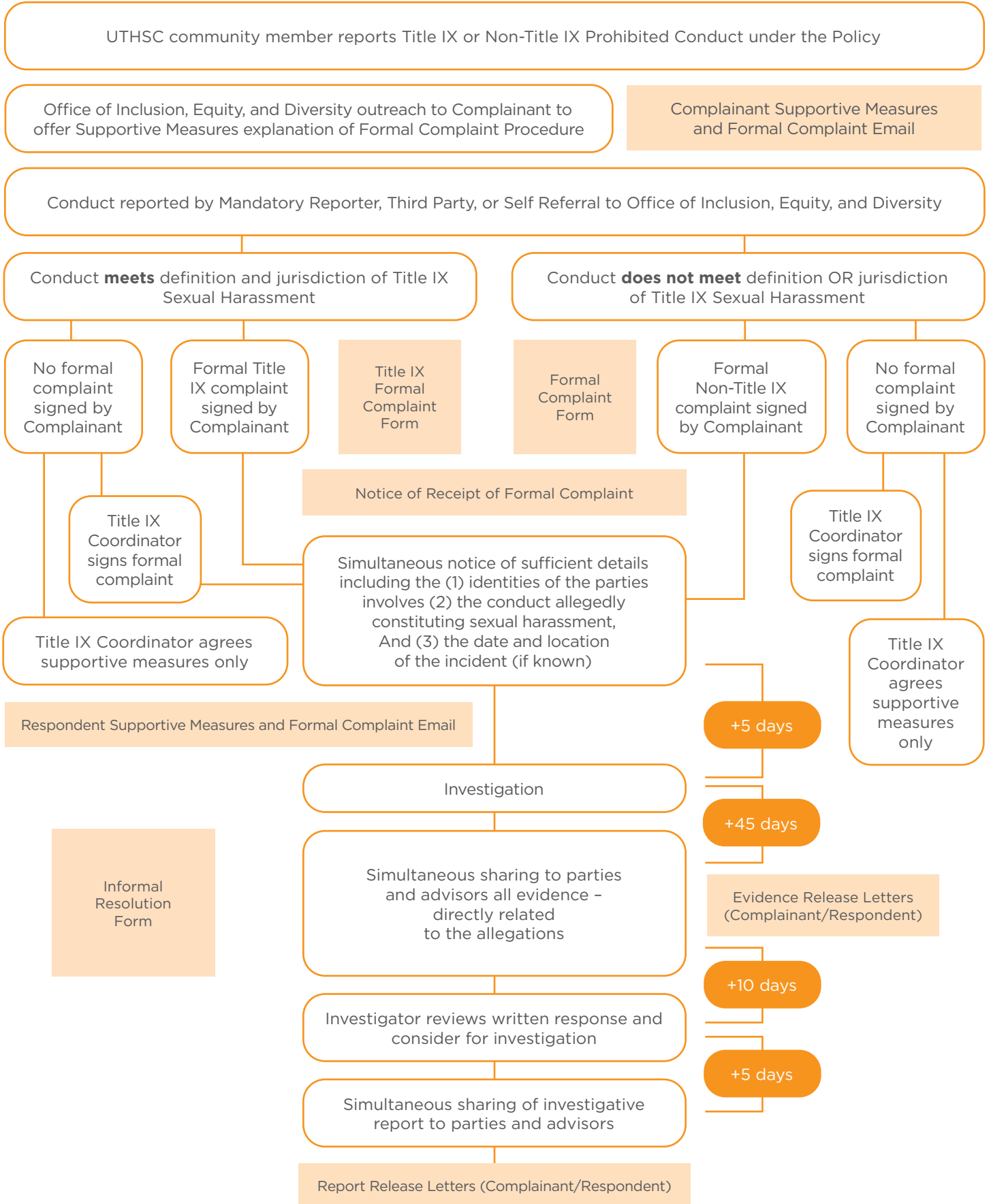
Attendance during a Title IX Hearing is limited to the Title IX Hearing Officer, a representative from the Office of Student Conduct, the Complainant and the Complainant's advisor, the Respondent and the Respondent's advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent.

Each party will be given equal opportunity to present evidence including opening statements. The Title IX Hearing Officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions. Cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally.

A Notice of Decision, a written determination regarding responsibility, will be issued by the Title IX Hearing Officer within fifteen (15) business days of the hearing. In deciding the appropriate sanctions for a Respondent's misconduct, the Title IX Hearing Officer may consider information provided at the hearing by the Complainant, the Respondent, or any other witness with relevant information concerning the appropriate sanctions, if the Respondent is determined responsible.

The Complainant and the Respondent may appeal the decisions of the Title IX Hearing Officer (or the dismissal of a Formal Complaint), but the grounds for appeal are limited to those described in Section .08(5)(h)(2) of the code.

APPENDIX C: TITLE IX & NON-TITLE IX PROHIBITED CONDUCT COMPLAINTS & INVESTIGATIONS (1 OF 3)*

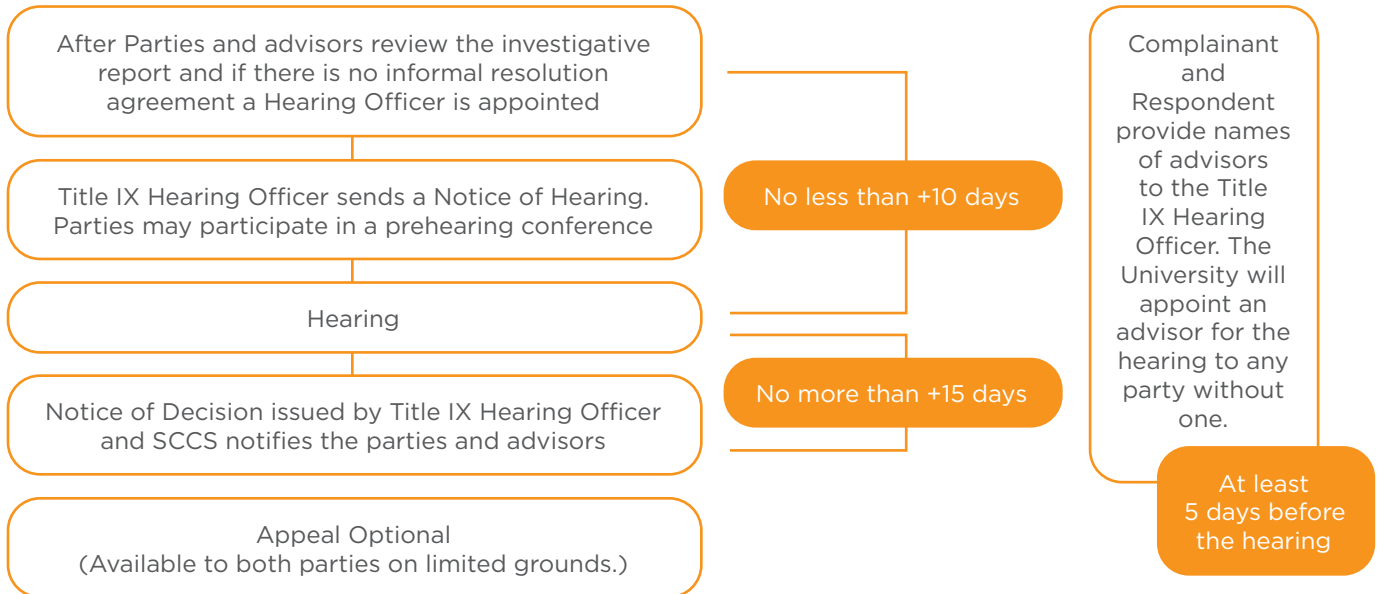


*The flow chart is a summary graphical representation. For full detail and information see the Policy and associated Code of Conduct.

APPENDIX C: TITLE IX PROHIBITED CONDUCT HEARING AND APPEALS STUDENTS (2 OF 3)*

A Title IX Prohibited Conduct Complaint must be resolved through the Title IX Hearing process, unless the parties agree to an Informal Resolution. Section IX of the Code describes the process for a Title IX Hearing. The University generally concludes these hearings with a decision within forty (40) business days of the end of the investigation.

Informal Resolution can occur at any time following formal complaint and prior to a finding of responsibility.

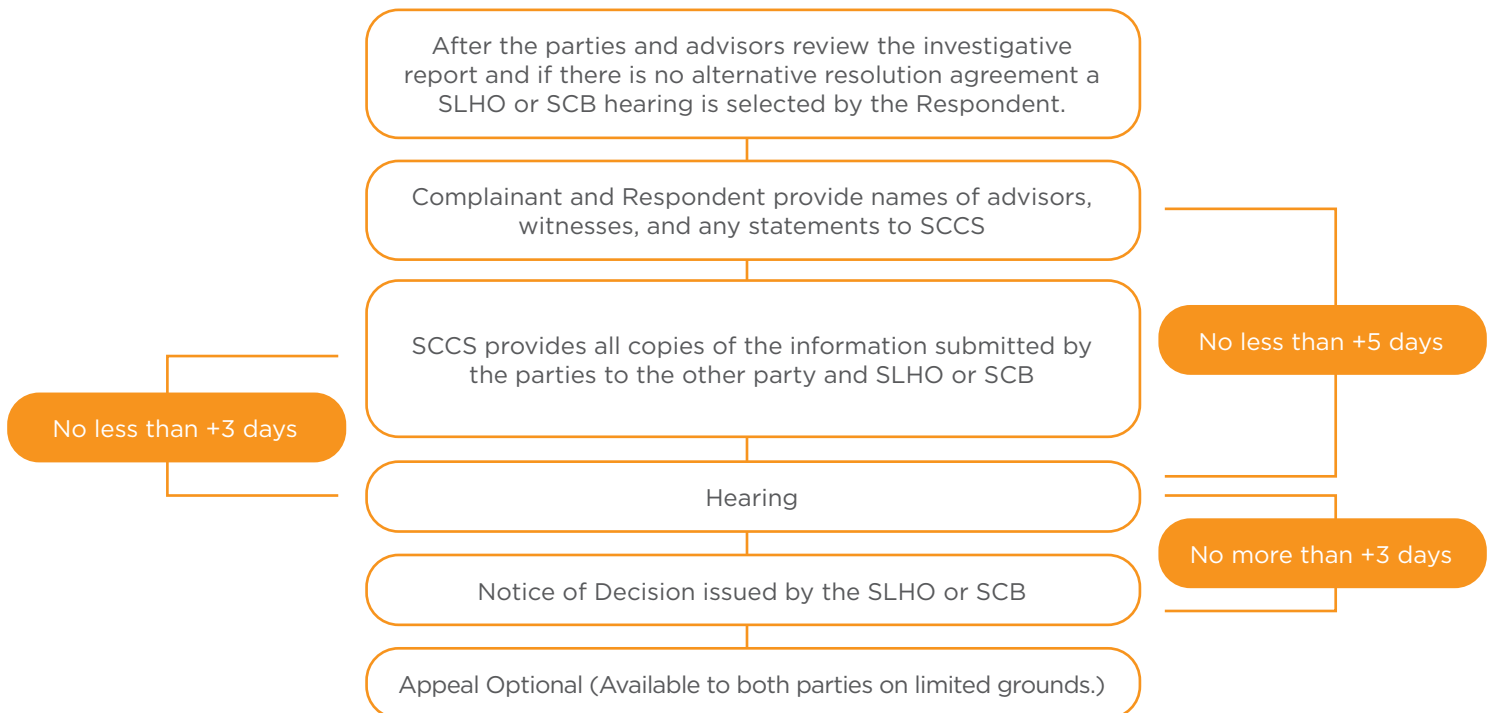


APPENDIX C: NON-TITLE IX PROHIBITED CONDUCT HEARING AND APPEALS (3 OF 3)*

A Non-Title IX Prohibited Conduct Complaint may be resolved by a hearing before the Student Life Hearing Officer, a hearing before the Student Conduct Board, or, in some cases, a hearing under state law, the Uniform Administrative Procedures Act. Sections VII and VIII of the Code describe the process for those hearings, unless the University agrees to an Alternative Resolution. The University generally concludes these hearings with a decision within thirty (30) business days of the end of the investigation.

The timelines described do not apply if a Respondent exercises the right to have a hearing conducted under state law, the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 et seq. ("UAPA"). If a Respondent exercises a right to a UAPA hearing, then an administrative judge will be appointed by the University's Agency Head typically within five (5) business days of the Respondent's request for a UAPA hearing. The timelines for a UAPA hearing are governed by the UAPA.

An Alternative Resolution may occur at any time following formal complaint and prior to a finding of responsibility.



*The flow chart is a summary graphical representation. For full detail and information see the Policy and associated Code of Conduct.