

Participating in a Title IX Investigation Process as a Complainant or Respondent

The following information is provided to increase awareness and knowledge of the investigation process for Complainants and Respondents, and to address some common questions and concerns regarding the investigation process.

An investigation is part of the administrative process the campus uses to determine whether a campus policy has been violated. The investigation is not a legal or disciplinary proceeding, and as a result, a Title IX investigation does not determine guilt or innocence relative to any local, state, or federal law, nor does it adhere to the same rules that govern or might be applied in a legal or disciplinary proceeding. In the Title IX investigation process, individuals bringing forward allegations are referred to as Complainants, and individuals responding to allegations are referred to as Respondents. Sometimes Complainants and Respondents are referred to individually as “a party” or jointly as “the parties”.

The Role of an Investigator

The investigator is charged with gathering information (fact gathering) and determining what occurred (fact finding). The investigator will gather information and evidence, determine which of the information and evidence is relevant to the allegations, conduct an analysis of the relevant information, and make findings of fact. The investigator assigned to conduct the investigation, whether an internal or external investigator, does not act as an advocate, provide advice to the campus with respect to what actions, if any, should be taken as a result of findings, represent the campus in a legal action or proceeding, and does not provide any legal advice to the campus related to the investigation process.

Interviewing with the Investigator

When you meet with the investigator, you will have the opportunity to speak about the allegations and related events from your perspective, and the investigator will ask you questions related to the allegations. During the course of the investigation, the investigator will provide you with an opportunity to identify witnesses that you believe have information and/or knowledge about events or circumstances related to the allegations and provide you with opportunity to submit information (e.g. documents, texts, emails, images, etc.) for the investigator to review and consider. The investigator may ask to interview you more than once so that you may respond to information gathered since your previous interview and/or to follow up with you for additional clarity. The investigator will share interview notes with you so that you can check them for accuracy and completeness.

Notes and Recordings

The investigator will take notes during the interview. However, interviews with the investigator are not recorded, and no recording is permitted by anyone participating in the investigation process, including complainants, respondents, witnesses, and advisors.

Decision regarding the investigation

Once the investigation is complete, the file will be reviewed by a decisionmaker. This person’s role is to determine whether or not the policy has been violated. The decisionmaker will notify both the complainant and the respondent of the finding and of next steps. If the policy has been violated, the Associate Vice President for Student Life and Success will be contacted for the implementation of

sanctions for student respondents. If the respondent is an employee, Human Resources and the appropriate supervisor will be contacted for the implementation of sanctions.

Appeal

Both the complainant and respondent may request a redacted copy of the investigative report, and both parties may appeal the decisionmaker's determination.

A Matter of Privacy

The campus will protect the privacy of all individuals involved in the investigation process, including complainants, respondents, and witnesses, except as provided by law and university policy. In order to conduct a thorough investigation, there may be times during the investigation when the investigator may necessarily be required to share information related to the allegations with individuals participating in the investigation process (i.e., complainants, respondents, witnesses, and advisors).

Complainants and respondents are asked to keep the information learned during the investigation confidential throughout the course of the investigation. No duplication or sharing of documents or information learned or obtained during the course of the investigation is permitted with any third parties, other than your advisor. Further, any witnesses and advisors involved in the investigation are required to keep information learned during the investigation confidential and are not permitted to share such information with any third party.

Rights of Complainants and Respondents

During the course of the campus investigation, complainants and respondents have the right to:

- Be treated with respect;
- Choose one individual to serve as their advisor (it is recommended that the advisor not be someone who is a witness in the same matter);
- Be interviewed by the assigned investigator;
- Identify witnesses who may be interviewed at the investigator's discretion;
- Present information and material to the investigator for his/her review and consideration;
- Respond to contradictory or conflicting information or evidence that is provided by any witnesses or the other party;
- Decide not to participate in the investigation or an interview with the investigator and the investigator to not hold that decision against them during the investigation process; and,
- Be informed of the outcome of allegations regarding sexual harassment and/or sexual violence.

Questions and Clarification

If you have any questions or would like additional clarification regarding the investigation process, please contact Debra Peterson, Title IX Officer via phone (218) 755-4121 or via email at debra.peterson@bemidjistate.edu