

Title IX Process Steps

Formal Complaint Steps, SMAP-X Hearing and Informal Options

1

Complainant reports allegations to OEO (or other Responsible Employee) and/or files a **Formal Complaint** form with OEO or via Ethicspoint

2

OEO sends the Complainant **Resources and Supports** document (regardless of whether they are faculty, staff, student or third party)

3

OEO Conducts an initial inquiry and an **Assessment of the Allegations** and/or sufficiency of the Formal Complaint

4

If the Allegations fall within Title IX, OEO sends the Complainant the **Explanation of Informal Process Options**. If the Allegations fall outside of Title IX, the Complainant will be provided with information on other process options that may be available such as the Formal Sexual Misconduct Policy Process (SMAP) or other informal process options, if possible

5

In cases where the Allegations fall under the Title IX Policy, the Complainant can choose which one of the two processes they wish to follow, with certain limitations noted below. See **Informal Options Process timeline** and **Formal SMAP-X Process timeline**, both below.

- NOTE: If Respondent is an employee (faculty, staff or other community member) and the complainant is a student, informal options are **not** available.
- NOTE: If after the initial inquiry and **Assessment of the Allegations**, OEO determines that the Respondent poses a threat to the well-being, safety, or employment/educational program of the Complainant and/or the Tufts community, the University reserves the right to proceed with a **Formal Complaint** against the Respondent even if the Complainant chooses not to participate.
- NOTE: OEO, TUPD and the corresponding dean may make a threat assessment at this time to place the Respondent employee on administrative paid leave and/or the Respondent student out on an emergency leave pending the outcome of the investigation. A **SMAP-X** appeal process for this decision will be followed.

6

A **Notice and Assessment of the Allegations** letter will be sent to the Respondent as well as to the Complainant.

The Notice and **Assessment of the Allegations** will include the policies that may be implicated in broad terms, the process timeframes, the nature of the allegations (who, what, where, when, how, etc.), language that OEO presumes the respondent is not responsible for the alleged conduct unless there is a determination of responsibility at the end of a formal process, that neither party can knowingly make false statements or knowingly submit false information, that they will both have a right to review and respond to evidence gathered and received before a determination of responsibility is made in a formal process, that they both have a **Right to an Advisor** if a formal process is chosen, and if they don't have an advisor for the hearing they need to reach out to OEO for **Resources and Support** so OEO can assign one.

7

Along with #6 above, the Respondent will also receive the **Resources and Supports** document.

8

Both parties will be sent the **Non-Retaliation and Privacy Acknowledgement** for return signature and the **Right to an Advisor** letter, if a formal process is chosen, with return required with the name, address, phone number and email of their advisor.

9

The Complainant will have one week after receiving the **Notice and Assessment of the Allegations** document to decide which process they wish to follow, the **Formal SMAP-X Process** (if applicable in the assessment document) or an informal process option (**See Explanation of Informal Process Options**).

10

If the Complainant chooses the **Formal SMAP-X Process**, the OEO will choose a neutral fact finding investigator (and advisors, if necessary) and the **Formal SMAP-X Process** will commence. Please see that document. The Title IX Coordinator reserves the right to decide, in some matters, which process may be appropriate based on the scope of the allegations raised and evaluated in the **Assessment of Allegations** document.

11

If the Complainant chooses options from **Explanation of Informal Process Options**, the OEO will begin that process. Please see that document.

FORMAL SMAP-X PROCESS under Title IX

(could take approximately 4-6 months)

1

If the Complainant decides they want to choose the formal process, a trained and neutral fact finder will be chosen to conduct an investigation. The investigation includes interviews with the parties and relevant witnesses as well as the gathering of relevant evidence (i.e. texts, social media posts, emails, etc.). All evidence gathered and received will be shared with both parties during this investigative phase. Each party or their advisors may submit a list of questions to the investigator via email for response by the other party. The Investigator may reframe or omit questions that are irrelevant, raise impermissible issues about the sexual history of a party, or otherwise violate the Tufts Non-Discrimination policies.

2

The Investigator finishes the draft investigative report of the facts in the matter and the draft investigative report is uploaded to the secure portal, ONEHUB, for both the parties and their advisors to read. Rebuttals to the draft investigative report are due to the investigator a week after they are posted to ONEHUB.

3

The Investigator reviews the rebuttals to the draft investigative report and makes any necessary edits or changes and sends the Final Investigative Report to the chosen Adjudication Panel and parties. The final report will be provided at least 10 days before the adjudication hearing.

4

The Title IX Coordinator chooses the Adjudication Panel of three for each matter, taking into consideration demographic requests of the parties. The SMAP-X Panel will consist of a trained, external Panel Chair who will be joined by two trained internal adjudicators. Each will have an equal vote in the SMAP-X adjudication. The Panel Chair will be in charge of the hearing proceedings including requesting the participation of relevant witnesses and managing the legally required live cross-examination.*

5

One advisor for each party will be allowed in the adjudication. Witnesses are not allowed an advisor. See **Right to an Advisor** document. The Title IX Coordinator or her designee will attend the adjudication to keep the record and/or to answer any process questions.

6

All adjudications will be virtual unless both parties agree to attend the adjudication in person. All adjudications are legally required to be recorded. All parties will be given separate opportunities to attend a tutorial on the virtual platform chosen for the adjudication (i.e. Zoom, WebX).

7

After the SMAP-X hearings for each matter are completed to the satisfaction of the SMAP-X Panel, the panel may take up to a week (or more with good cause) to deliberate before they make a determination of responsibility and determine a corresponding sanction (if required). If the SMAP-X Panel requests more information or they need more facts to be gathered before they can make a determination, the panel can remand the matter back to the investigator for further fact gathering.

* If both parties to a Formal Title IX resolution process knowingly and voluntarily waive their rights to a live cross-examination process in writing, any cross-examination questions at the hearing can be routed to the Panel Chair who will then ask the questions of the witness or party. See pre-Hearing Conference Step in the Formal SMAP-X Process.

8

SMAP-X sanctions can be educational, punitive, restorative, rehabilitative or disciplinary. Disciplinary sanctions may include suspension or expulsion for students or demotion or termination for employees.

9

The SMAP-X Panel members each have an equal vote in the decision. Parties are not allowed to contact the panel members directly but must go through the Title IX Coordinator if they or their advisor have any questions for the adjudicators. The SMAP-X Panel Chair will write the Panel Decision which will be signed by all three adjudicators and sent to the Title IX Coordinator who will simultaneously send it to the parties, advisors and corresponding dean, Human Resource Business Partner, supervisor or department chair.

10

The SMAP-X decision will be determined by the preponderance of evidence standard and will either conclude there was or was not a violation based on that standard. The decision will include findings of fact supporting the determination reached as well as other background information, and information about options for appeal.

11

Both parties have the right to appeal. Please see **Appeal Process** below.

SMAP-X APPEAL PROCESS

1

The parties have 5 business days after being issued the SMAP-X decision to submit the **Notice of Appeal** Form to the Title IX Coordinator. Each party is entitled to one appeal of the SMAP-X decision based on any or all of the criteria below. Each party has the opportunity to appeal the SMAP-X decision based on the following criteria:

- 1) Procedural Irregularities (which can include conflict of interest or bias);
- 2) new evidence and
- 3) conflict of interest of the Title IX Coordinator, investigator or decision maker, and
- 4) severity of the sanction.

2

Upon receipt of an appeal, the Title IX Coordinator will inform the other party and their advisor of the appeal and will be provided with a copy through ONEHUB. In some situations, both the complainant and respondent may both file an appeal. In this situation, the Appellate Adjudicator will review both appeals together. If neither party files an appeal within 5 business days, the SMAP-X Panel's decision will be considered final and the adjudication process will be permanently closed.

3

The appeal will be considered by a trained, impartial external adjudicator who was not on the SMAP-X Panel and who does not have a conflict of interest with any of the parties. In considering the appeal, the Appellate Adjudicator will be given all the documents reviewed in the SMAP-X Panel, including their decision, as well as the appellate documentation. An appeal is not an opportunity to argue that a complainant or respondent or their advisors disagrees with the SMAP-X decision and is not a new fact-finding process (unless new evidence has been found).

4

The appeals process will usually be completed within 30 business days from the filing of the Notice of the Appeal to the communication of the final decision of the Appellate Adjudicator to the Title IX Coordinator to the party/parties and the advisor(s). The Appellate Adjudicator's decision is the final decision and appellate step in this process. For more information about the Appeal Process, see the SMAP-X .

INFORMAL PROCESS

(may take approximately 1-2 months, depending on options chosen)

1

If the Complainant chooses an Informal Process, they can choose a variety of the options from the **Explanation of Informal Process Options**.

2

Options include: Policy and/or educational discussions, facilitated discussions, mediations, weighted No Contact Orders other approved options agreed to by the parties. The parties are expected to enter into the Informal Process voluntarily and can be utilized, if engaged in with good faith, to resolve the **Formal Complaint**. OEO retains the record of these agreements and resolutions but these do not register on either party's student record.

3

A Complainant or Respondent may discontinue the Informal Process option(s) chosen at any time in writing to the Title IX Coordinator and request to move to the Formal **SMAP-X** Process. If an Informal Process does not conclude the matter, the Title IX Coordinator reserves the right to move the matter to the Formal Process via an Administrative Complaint. No information shared in the Informal Process by either party or witnesses can be used in the Formal Process.

4

If the **Informal Process** concludes with a resolution, the **Formal Complaint** will be considered resolved and closed in OEO with any continued OEO monitoring until the parties leave Tufts. The appropriate Dean, supervisor, HRBP or chair will be informed of the resolution, without detail, so they can assist in monitoring the parties.