

Options and Resources for Student Respondents: Title IX and Discriminatory Harassment and Sexual Misconduct

2020-21 ACADEMIC YEAR

REED COLLEGE



Title IX

Title IX of the Education Amendments of 1972 protects individuals from sex discrimination in educational programs and activities at institutions that receive federal financial assistance. Reed's Title IX and Discriminatory Harassment and Sexual Misconduct (DHSM) policies describe in detail prohibited conduct and the college's processes for responding to reports of violations. The material in this handbook was up to date at the time of publication. Web pages are updated with new information as policies, processes, and resources change; please go to reed.edu to find the most current information.

CONTENTS

02 Introduction /
02 Respondent rights / **03** No-contact orders
and retaliation / **05** Reporting /
05 Privacy, confidentiality, and privilege /
06 Reporting a Violation of the Title IX or
DHSM policies / **08** Title IX investigation,
adjudication, and appeals / **12** DHSM
investigation, adjudication, and appeals /
17 Communication of outcome /
17 Legal assistance / **18** Resources /
20 Self-care for Respondents

Introduction

Reed College is committed to maintaining a free and diverse campus community in which students, faculty, and staff can live, learn, work, and express themselves honorably. Membership in the Reed community, as governed by the Honor Principle, imposes obligations on students, faculty, and staff to respect the dignity and autonomy of others and to treat one another civilly and without regard to factors irrelevant to participation in the life of the college. This handbook has been created to provide information to Respondents about the college's Title IX and DHSM policies and procedures.

For full descriptions of the policies, procedures, and definitions of prohibited conduct as well as other defined terms, please refer to the Title IX policy (reed.edu/governance/title-ix-policy/index.html), Title IX Grievance Procedures for Students (reed.edu/governance/title-ix-grievance-procedure-for-students/index.html), the DHSM (reed.edu/academic/gbook/comm_pol/dhsm_policy.html), and the Judicial Board Code (reed.edu/academic/gbook/comm_pol/judicial-board-code.html).

Respondent rights

Respondents have the right to

- be notified, under the Title IX policy, of a Formal Complaint in which they are named as a Respondent;
- be notified of a DHSM Complaint in which they are alleged to have violated Reed policy;
- discuss the underlying facts and circumstances giving rise to a Complaint with anyone, including as necessary for the development of testimony or the identification of appropriate Witnesses or other evidence;
- follow up on information that they learn before, during, or after an investigative or adjudicative process for the purpose of developing their case or seeking resources;
- participate or refuse to participate in an investigation or an adjudicative process;
- a procedure that includes the presumption that the Respondent is not responsible for a policy violation unless and until a determination regarding responsibility is made at the conclusion of the process;

- bring two Advisers of their choosing with them to any meeting related to the reporting, investigative, adjudicative, or appeals processes under the Title IX and/or DHSM policies;
- access on-campus confidential resources (e.g., a counselor with Reed College’s Health & Counseling Services);
- access off-campus confidential resources (the choosing of and compensation for which the Respondent is solely responsible);
- access an attorney (the choosing of and compensation for which the Respondent is solely responsible);
- appeal in writing the outcome of a DSHM investigation per the process described on Reed’s Title IX website;
- appeal in writing the outcome of a dismissal of a formal Complaint under the Title IX policy;
- appeal in writing the outcome of a DHSM Hearing per the process described in Reed’s Judicial Board Code, or a Title IX Hearing per the process described in Reed’s Title IX Student Grievance Procedures.

No-contact orders and retaliation

NO-CONTACT ORDERS

Reed’s community safety office may issue a no-contact order (NCO), depending on the circumstances, to individuals involved in Title IX and/or DHSM reporting, Complaint, or adjudicative processes. An NCO may apply to Respondents, Complainants, Witnesses, or others. In most cases, no-contact orders are reciprocal, meaning the restrictions apply equally to all individuals named in the order. In certain circumstances, an NCO may have additional restrictions for one or more of the individuals named in the order.

An NCO may place temporary restrictions on access to certain areas, activities, or both as necessary to protect all individuals named in the order. This may include limiting access to residence halls. The college will make a reasonable effort to minimize the impact of interim measures on those involved.

An NCO does not prohibit individuals from discussing the underlying facts and circumstances giving rise to a Report of Complaint with any-

one except the other individuals named in the NCO, for the purposes of gathering information related to their testimony and/or the identification of appropriate Witnesses or other evidence.

If a Respondent believes they need to contact an individual listed in an NCO, they should contact the Title IX Investigator or Title IX Coordinator first to determine how information can be accessed without violating the order.

RETALIATION

Retaliation is prohibited under the Title IX and DHSM policies. Some examples of actions that might be considered retaliatory include

- pressuring a person to stop them from submitting a Report or Complaint;
- threatening a person with harm or violence to stop them from submitting a Report or Complaint;
- ostracizing a person who has made a Report or Complaint or participated as a Witness in an investigation or hearing;
- harassing a person who does not want to be contacted and who has made a Report or participated as a Witness in an investigation or hearing;
- pressuring a person to provide false or misleading information during an investigation or hearing.

Reporting

The college will respond to all Reports that allege violations of college policy and take appropriate steps to keep community members safe and prevent future harm. All investigations are conducted to the extent possible based on available information and feasibility.

CHILD ABUSE MANDATORY REPORTING

Oregon law requires most employees of the college, including students, to immediately Report suspected sexual or physical abuse or neglect of any person under 18 years of age to law enforcement or the Department of Human Services.

Privacy, confidentiality, and privilege

Any information published by the college about incidents of sexual assault, dating and domestic violence, and stalking in its Annual Security Report and other college publications does not include information that could identify the parties involved.

Privacy is a personal choice whether to disclose information about oneself. Respondents have the right to decline to share personal information with the college and to refuse to participate in investigations or adjudicative processes.

Confidentiality is an ethical or legal duty to protect information that someone else has shared. The college will make reasonable efforts to protect information shared or learned during an investigation, but it may share information, including identifying information, as needed to investigate and take action to protect the campus or as required by law.

Privilege is a legal rule that prevents, in most instances, compelled disclosure of confidential information shared between a Respondent and specific persons. In most cases, only communication with attorneys, medical providers, and counselors is protected by privilege.

Reporting a Violation of the Title IX or DHSM policies

Reports of sexual harassment, non-consensual sexual contact, sexual assault, dating or domestic violence, sexual exploitation, stalking, and other possible violations of the Title IX policy or the DHSM policy can be made to the Title IX/504 Coordinator or any other Official With Authority. Anyone—regardless of their relationship to an alleged violation—may make a Report. Reports may be made in writing or in person.

In the case of a Report against a vice president, the Title IX Coordinator, the dean of the faculty, or the director of human resources, the Report may be made to the president.

In the case of a Report against the president, the Report may be made to the chairman of the board of trustees.

Reports of sexual harassment and gender discrimination may also be filed directly with the US Department of Education Office of Civil Rights by phone (800-421-3481) or email (ocr@ed.gov). Reports and/or Complaints of potential violations of Title IX or the DHSM policy are investigated fairly and impartially, in a manner consistent with the procedures outlined in the DHSM and the Title IX Grievance Procedure for Students. There is no formally required content to make a Title IX or DHSM Report, but the following information is helpful:

- Name and Reed affiliation (e.g., student, faculty, staff, visitor) of the person making the Report
- Name and Reed affiliation of the subjects of the Report
- A brief statement of the event or events that are the cause of the Report, including relevant date and location
- If the Report is in writing, the signature of the person making the Report and the date of the filing of the Report

SUPPORTIVE MEASURES

The college may provide supportive measures to parties, including Respondents, if requested and reasonably available. The college will make a reasonable effort to minimize the impact of supportive measures on the parties involved.

Disclosure of the names of the parties and the reason for the supportive measures may be necessary in order to provide these measures, but the college will protect the confidentiality of parties as is practicable.

Here are some examples of supportive measures:

- If the parties share a class, one may be able to change sections.
- If the parties live on campus near each other, it may be possible for one to move into a different residential community.
- If the parties are employed on campus, student life can work with campus employers to minimize the possibility that employment will put the parties in contact.
- Counseling is available to students at Reed College's Health & Counseling Center without charge during the academic year.
- No-contact orders may be requested from the director of community safety.

TYPES OF COMPLAINTS RESOLVED UNDER THE TITLE IX GRIEVANCE PROCESS

The Title IX Grievance Procedure for Students is utilized to address Formal Complaints of violations of any of the behaviors prohibited in the Title IX policy alleged against any individual who was a member of the student body at the time the allegations are alleged to have occurred.

TYPES OF COMPLAINTS REVIEWED BY THE DHSM BOARD

The Title IX Board hears Complaints brought by any current or former members of the Reed community against any individual who while a member of the student body has allegedly engaged in behavior that would violate Title IX, including any act of sexual misconduct.

AMNESTY

Amnesty is intended to support the practice of Reed students reporting alleged incidents of prohibited discriminatory harassment, sexual misconduct, and other violations of the Title IX and DHSM policies and to protect student safety. Normally, the college will not impose disciplinary sanctions for violations directly related to the Complaint by the Complainant and any Witnesses unless these violations are reportable offenses—such as sexual assault, sexual harassment, stalking, and relationship abuse, including dating and domestic violence—and provided that the violations by the Complainant and any Witnesses did not put the health and safety of any other person at risk.

STUDENT RESPONDENTS

Students may be identified as Respondents—individuals alleged to have engaged in prohibited conduct—with respect to the Title IX and/or DSHM policies. For clarity, the following portions on Complaint response and procedures have been separated into: (1) Title IX procedures, and (2) DSHM procedures.

Title IX investigation, adjudication, and appeals

For the purposes of this section, please see the Title IX policy and Title IX Grievance Procedure for Students for defined terms and full descriptions of the grievance procedures.

INVESTIGATION

When a student is identified as a Respondent they will be notified and provided information, access to supportive measures, and informed of their opportunity to participate in the investigation process. When the Title IX Investigator has concluded the investigation process, they will prepare an investigative Report. The Report, along with information gathered by the Title IX Investigator, will be provided to the Complainant and Respondent, along with a deadline by which to respond. The Title IX Investigator will incorporate response and additional information, as appropriate, into a finalized Report. The Report will then be forwarded for adjudication as outlined in the Title IX Grievance Procedure or Students.

DISMISSALS AND INFORMAL RESOLUTIONS

A Title IX Investigation does not necessarily result in an adjudicative process. Formal Complaints filed under the Title IX policy may be dismissed or resolved informally prior to a hearing. If the Title IX Coordinator dismisses a Formal Complaint, the Complainant and Respondent will be notified and will be afforded the opportunity to appeal the dismissal. Informal resolutions are voluntary and may be requested by a party at any time during a Formal Complaint process. At any point prior to the finalization of an informal resolution, a party may halt participation in the informal process, at which point the investigation or adjudicative process will continue.

TITLE IX HEARING

For each Title IX Hearing, a Hearing Officer is responsible for managing the hearing, including facilitating cross-examination questions to be posed to parties and Witnesses, directly by parties' Advisers. Title IX Hearings for student Respondent cases are governed by the procedures specified in the Title IX Grievance Procedure for Students.

Please visit reed.edu/governance/title-ix-grievance-procedure-for-students/index.html for the most current Title IX Grievance Procedure for Students information.

ADVISERS

Parties involved in a Title IX Grievance Procedure for Students may have two Advisers of their choosing with them during any meeting related to the Grievance Process. There are no limitations on who may serve as an Adviser. Advisers may include but are not limited to the following:

- Another student
- A parent or family member
- A member of the faculty or staff
- An advocate
- An attorney

The college will make reasonable attempts to be flexible in scheduling to permit an Adviser to be present during an investigative

meeting or hearing. However, the right to have an Adviser present does not allow for an unreasonable delay. If a party does not have an Adviser, the college will provide an Adviser of the college's choosing to the party, for the purpose of conducting cross-examination during a hearing.

Adviser Expectations

Advisers must observe the following rules during the investigative and hearing processes:

- Advisers may not make any recordings during any meeting or hearing, by electronic or any other means.
- Advisers may not respond to questions on behalf of students or otherwise impede the investigation information gathering process.
- The Title IX Investigator may excuse an Adviser or end an investigative meeting at any time if an Adviser fails to comply with these expectations or if the Adviser, in the opinion of the Title IX Investigator, disrupts the investigative process during a meeting.
- Advisers must follow instructions and stated expectations for decorum as detailed by the Hearing Officer.
- The Hearing Officer reserves the right to remove an Adviser from a hearing if the Adviser fails to abide by the limits and procedures set forth by the Hearing Officer. In such cases, the Hearing Officer will determine the manner in which the hearing will proceed.
- Advisers are expected to adhere to confidentiality and privacy guidelines as communicated by the Title IX Coordinator, Investigator, Hearing Officer, or vice president for student life (or designee).

TITLE IX HEARING OUTCOMES

Once the Title IX Hearing has concluded, the Hearing Officer will determine, based on a preponderance of the evidence, whether the alleged portions of the policy were violated during the incident in question.

The Hearing Officer will submit this determination to the vice president for student life (or designee). If the determination includes a policy violation, the vice president for student life (or designee) will review the outcome, and in consultation with members of the Title IX Board, assign sanctions. The vice president for student life (or designee) will

send a written decision letter to the parties. The written decision letter includes information on how to appeal the outcome. If there is a finding of responsibility, possible sanctions for the Respondent may include:

- Expulsion
- Suspension
- Community service
- Full exclusion from campus and all college-affiliated events
- Limited exclusion from campus
- Meetings with the vice president for student life (or designee)
- Health & Counseling Services meetings
- Alcohol and Other Drug use assessments or other therapeutic interventions
- Consultation with other members of the community
- Educational programs
- Coursework at an external institution
- Apologies
- Behavioral expectations contract
- Reflection essays
- Financial restitution
- Disciplinary probation
- Loss of alumni privileges
- Restriction or hold on transcripts, registration, and receipt of diploma until sanctions have been completed
- Room inspection and search
- Removal from Reed-owned housing
- Restrictions related to living in or accessing Reed-owned housing
- Restrictions or removal related to on-campus student employment, appointed or volunteer positions, or participation in college organizations or events

APPEALS OF TITLE IX HEARING OUTCOMES

Respondents and Complainants may appeal Title IX Hearing outcomes to the vice president for student life (or designee) within ten working days of notification of the decision as outlined in the Title IX Student Grievance Procedures. An appeal must be made on the basis of one or more of the following three grounds:

1. Procedural irregularity that affected the outcome of the matter;
2. Newly discovered evidence that could affect the outcome of the matter, and/or;
3. Conflict of interest or bias by the Title IX Coordinator, Deputy Coordinator, Investigator, Hearing Officer, or other decision-makers that affected the outcome of the matter.

Appeals will be heard as outlined in Section 7 of the Judicial Board Code. The appeals board submits their recommendations to the vice president for student life (or designee) and the vice president for student life (or designee) sends a written decision letter to the parties.

DHSM investigation, adjudication, and appeals

For the purposes of this section, please see the DHSM policy for defined terms.

INVESTIGATION

When a student is identified as a Respondent they will be notified and provided information, provided access to supportive measures, and informed of their opportunity to participate in the investigation process. The Sexual Misconduct Investigator will prepare an investigative Report when the investigation is completed. The Report will be provided to the parties as described in the DHSM, along with instructions that detail students' response options. No formal sanctions are assigned to students solely on the basis of DHSM investigations, although interim measures may be taken to protect individuals and the campus.

ADJUDICATIVE PROCESS

A DHSM investigation does not necessarily result in an adjudicative process. In some cases, when the college determines that a Respondent

may be a danger to the community, the college may initiate a DHSM adjudicative process in accordance with the college's established policies and procedures.

DHSM Board

The DHSM Board generally consists of six staff members as well as all student members of the Student Judicial Board (J-Board). DHSM Hearing Boards are typically made up of five members and are formed by the Title IX Board Chair for each hearing. DHSM Board Hearings are governed by the same procedures as the Judicial Board, except where specified in Section 10 of the Judicial Board Code.

All members of the Title IX Board, including the Hearing Facilitator, receive training in sexual misconduct adjudication as well as general training concerning the adjudication of alleged violations of relevant college policy and the Honor Principle. Title IX Hearings for student respondent cases are governed by the procedures specified in the Title IX Student Grievance Process.

Please visit reed.edu/honor_principle/adjudication/title-nine-board to find the most current information about the Title IX Board.

Please visit reed.edu/academic/gbook/comm_pol/judicial-board-code.html to review the Judicial Board Code in its entirety.

ADVISERS

Parties involved in a DHSM process may have two Advisers of their choosing with them during any meeting related to the grievance process.

In addition to identifying a Second (a member of the Reed community) to provide support, Respondents, Targets, Complainants, and Witnesses involved in a DHSM process may have an Adviser of their choice. There are no limitations on who may serve as an Adviser. Advisers may include but are not limited to the following:

- Another student
- A parent or family member
- A member of the faculty or staff
- An advocate
- An attorney

Advisers who attend investigative meetings and hearings with their advisee will be privy to information shared during the meeting and hearing. However, no representative of Reed College, including students and staff participating in the investigation or adjudication process, will share information with an Adviser outside of an investigative meeting or hearing. The college will make reasonable attempts to be flexible in scheduling to permit an Adviser to be present during an investigative meeting or hearing. However, the right to have an Adviser present does not allow for an unreasonable delay. The assigned Investigator or Hearing Board Chair will make the final decision regarding the reasonableness of any possible request for delay.

No one may serve as an Adviser without having been requested to do so by the Respondent, Target, Complainant, or Witness, and the advisee may ask their Adviser to be excluded from the process at any time.

Adviser Expectations

Advisers must observe the following rules during the investigative process:

- Advisers may not make any recordings during any investigative meeting, by electronic or any other means.
- Advisers may not respond to questions on behalf of students or otherwise impede the information gathering process.
- The Title IX Investigator may excuse an Adviser or end an investigative meeting at any time if an Adviser fails to comply with these expectations or, in the opinion of the Title IX Investigator, disrupts the investigative process during a meeting.
- Advisers are expected to adhere to the same confidentiality and privacy guidelines as their advisee.

Advisers must observe the following rules during a DHSM Board Hearing:

- Advisers may not record the hearing or any related meetings by any electronic means.
- Advisers may not speak to anyone other than their advisee during a hearing, except at the explicit invitation of the Hearing Facilitator.
- Advisers may not “object” to questions, dispute evidence, question participants, or otherwise interject during a hearing.
- The Hearing Facilitator reserves the right to remove an Adviser from a hearing if the Adviser fails to abide by the limits and

procedures set forth by the Hearing Board or those contained within the Judicial Board Code. In such cases, the hearing may proceed without the Adviser in attendance.

- Advisers are expected to adhere to the same confidentiality and privacy guidelines as their advisee.

DHSM HEARING BOARD RECOMMENDATIONS AND POSSIBLE SANCTIONS

Once the DHSM Hearing Board has concluded the hearing and deliberation process, they submit written recommendations to the vice president for student life (or designee) that include findings of fact, findings of violations (college policy and Honor Principle, if any), and recommended sanctions, if any. The vice president for student life (or designee) reviews the submitted materials and determines whether or not they agree with the DHSM Hearing Board findings and recommendations. The vice president for student life (or designee) sends a written decision letter to the Respondent and Complainant. The written decision letter includes information on how to appeal the decision. If there is a finding of responsibility, possible sanctions for the Respondent may include the following:

- Expulsion
- Suspension
- Community service
- Full exclusion from campus and all college-affiliated events
- Limited exclusion from campus
- Meetings with the vice president for student life (or designee)
- Health & Counseling Services meetings
- Alcohol and Other Drug use assessments or other therapeutic interventions
- Consultation with other members of the community
- Educational programs
- Coursework at an external institution
- Apologies
- Behavioral expectations contract
- Reflection essays

- Financial restitution
- Disciplinary probation
- Loss of alumni privileges
- Restriction or hold on transcripts, registration, and receipt of diploma until sanctions have been completed
- Room inspection and search
- Removal from Reed-owned housing
- Restrictions related to living in or accessing Reed-owned housing
- Restrictions or removal related to on-campus student employment, appointed or volunteer positions, or participation in college organizations or events

APPEALS OF DHSM HEARING OUTCOMES

The Respondent and Complainant may appeal the decision of the vice president for student life (or designee) within ten working days of notification of the decision as outlined in Section 7 of the Judicial Board Code. An appeal must be made in writing (there is generally no in-person hearing with the appeals board) to the chair of the appeals board on the basis of any (or all) of the following three grounds:

1. The sanctions were too lenient or too severe.
2. There was procedural error in the original hearing of the case that significantly affected the outcome.
3. There is new or newly discovered evidence that would have significantly affected the original decision.

All sanctions remain in effect during the appeal process unless the vice president for student life (or designee) opts to hold one or more of the sanctions in abeyance. The Respondent may submit a written petition to the vice president for student life (or designee) for such a waiver; however, they must do so within five working days of filing the appeal.

The appeals board submits their recommendations to the vice president for student life (or designee) and the vice president for student life (or designee) sends a written decision letter to the Respondent and Complainant.

Communication of outcome

The Complainant and Respondent will be informed in writing of the outcome of any Title IX or DHSM Board disciplinary proceeding, including the results of any appeal. “Outcome” typically means the Respondent’s name, the institution’s final determination with respect to the alleged violation(s), and any sanctions imposed against the Respondent, including the rationale for the decision.

Legal assistance

Respondents may wish to seek legal counsel to be advised of their rights during adjudicative, administrative, civil, and criminal proceedings.

The college does not provide legal assistance. Respondents may consult a private attorney and may consider utilizing the Oregon State Bar Lawyer Referral Service (LRS) to find an attorney. According to the Oregon State Bar, LRS attorneys are in good standing with the bar, have no current disciplinary proceedings pending, carry malpractice insurance, and agree to abide by specific customer service standards. More information may be found on the Oregon State Bar website.

Resources

ON CAMPUS

Reed Health & Counseling Services

503-777-7281; after-hours use Reed Counseling Hotline: 866-432-1224
reed.edu/health_center

Counseling and mental health services at the Health & Counseling Center (HCC) are provided by a multidisciplinary team. All of the clinicians at the HCC are particularly suited to dealing with issues affecting college students and the unique student body at Reed.

The HCC offers same-day walk-in appointments every weekday at 3 p.m. For urgent after-hours needs, the HCC contracts with the Reed After Hours Crisis Line, a call service staffed by specially trained mental health professionals to assist with urgent psychological or psychiatric questions or concerns.

As with most services offered by the HCC, appointments with counselors and prescribing clinicians are free of charge to full-time students.

Associate Dean, Academic Life (Julie Maxfield)

503-517-7916
maxfielj@reed.edu

Director, Academic Support (David Gruber)

503-517-7722
gruberd@reed.edu
reed.edu/student-life/index.html

The associate dean and director provide support to Respondents by providing information about Reed's Title IX investigative and adjudicative processes, making appropriate referrals to campus resources, and helping students to navigate academic and social challenges.

The associate dean and director are available to meet in person with Respondents throughout Title IX investigative and adjudicative processes as they consider their options for responding to allegations of sexual assault, sexual harassment, stalking, and relationship abuse, including dating and domestic violence.

Title IX Coordinator (Chris Toutain)

503-517-4842
toutainc@reed.edu
reed.edu/title-ix

Director of Community Safety (Gary Granger)

503-777-7379
grangerg@reed.edu
reed.edu/community_safety

Title IX Board

reed.edu/honor_principle/adjudication/title-nine-board

Judicial Board Code

reed.edu/academic/gbook/comm_pol/judicial-board-code.html

Discriminatory Harassment and Sexual Misconduct Policy

reed.edu/academic/gbook/comm_pol/dhsm_policy.html

Title IX Policy

reed.edu/governance/title-ix-policy/index.html

OTHER RESOURCES

Oregon State Bar Lawyer Referral Service

www.osbar.org/public/ris/

Family Educational Rights and Privacy Act (FERPA)

www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html

Title IX – Office for Civil Rights, Department of Education

www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html

Self-care for Respondents

Title IX investigative and adjudicative processes can be stressful and may impact academic responsibilities and social relationships. Respondents are encouraged to get support from friends, family members, Seconds, Advisers, counselors at Reed's Health & Counseling Center, and any other supportive on- and off-campus resources.