

Template for Providing Notice of Dismissal of Complaint under Title IX in Faculty and Staff Cases

Dear \_\_\_\_\_:

This letter acknowledges receipt of the Title IX complaint you filed with the Office of Equal Opportunity Programs (EOP office) on (date) \_\_\_\_\_ alleging you have been subjected to conduct which is a violation of ***Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*** (also referred to herein as the Title IX Regulations) and University of South Carolina policies prohibiting the alleged conduct.

***If supportive measures are desired but not yet requested or received, please inform the author of this letter upon receipt of this letter and you will be contacted by the EOP office to arrange for the implementation of supportive measures. Supportive measures may include changes in work schedules, work locations, modification of job duties, etc.***

The above-referenced complaint alleges that on or about (date) \_\_\_\_\_, you were subjected to the alleged conduct described below by (name of respondent), which is alleged to be a violation of Title IX and University of South Carolina policy \_\_\_\_\_.

Specifically the above-referenced complaint alleges that on \_\_\_\_\_ you were subjected to the following conduct: \_\_\_\_\_ . The conduct is alleged to have occurred at \_\_\_\_\_ location.

The Title IX regulations provide that:

*Sexual harassment* means conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient 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 recipient's education program or activity; or
- (3) Sexual assault, dating violence, domestic violence, or stalking.

Additionally, the Title IX regulations provide:

If the conduct alleged in the formal complaint would not constitute sexual harassment [as defined in the regulations] even if proved; did not occur in the university's education program or activity; or did not occur against a person in the United States, the university must dismiss the formal complaint under Title IX. However, the dismissal does not preclude action under another provision of the university's policies.

The Title IX regulations also permit the university to dismiss the formal complaint or any allegations of the complaint, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations of the complaint; or the respondent is no longer enrolled or employed by the university; or specific circumstances prevent the university from gathering evidence sufficient to reach a determination on the complaint or allegations in the complaint.

Based on the allegations contained in the complaint and in view of the above-referenced provisions of the Title IX regulations, the complaint is dismissed under Title IX. However, the EOP office intends to process this complaint as a Title VII "sexual harassment complaint" under EOP Policy EOP 1.02 (Sexual Harassment), EOP 1.03 (Prohibition of Unlawful Discrimination and Harassment) and, if appropriate, EOP 1.05 (Sexual Misconduct, Intimate Partner Violence and Stalking).

You have the right to appeal the dismissal of this complaint as a Title IX complaint. Please note that any appeal is limited to one or more of the reasons indicated below and must be supported by evidence substantiating the stated reason(s) for the appeal:

(A) Procedural irregularity that affected the outcome of the matter; (B) New evidence that was not reasonably available at the time the determination regarding the dismissal was made, that could affect the decision to dismiss the complaint under Title IX; and (C) The Title IX Coordinator or investigator(s) had a conflict of interest or bias for or against complainants or respondents generally or for or against the complainant(s) or respondent in this case(s) that affected the decision to dismiss the complaint under Title IX.

The appeal of any decision to dismiss a complaint under Title IX must be received by the EOP office within \_\_\_ ( ) calendar days of the dismissal decision. Upon receipt of any appeal of a dismissal decision, the EOP office will present the appeal to the appellate authority (which will consist of a three-person panel) and will provide a copy to any other parties in the case).

The non-appealing party will be afforded \_\_\_ ( ) calendar days of receipt of the appeal to provide a response, if any, to the appellate authority, the appealing party and to the EOP office.

The appellate authority will issue its decision to the parties and to the EOP office within ten (10) calendar days after expiration of the time period for the non-appealing party to respond to the appeal. The decision of the appellate authority shall be the final decision on the appeal.

The appellate authority shall have ten (10) calendar days to issue a decision to the appealing party. The appellate authority's decision shall be final, university action on the dismissals.

### ***Retaliation***

This letter also serves as a reminder that institutional policy prohibits retaliation, which is defined as: "Any intentional, adverse action taken by an individual absent legitimate nondiscriminatory purposes, as reprisal against a participant in a civil rights grievance proceeding". Retaliation exists when an individual harasses, intimidates or takes other adverse actions against a person because of the person's participation in an investigation of unlawful discrimination or harassment or sexual misconduct, or because of their support of someone involved in an investigation of unlawful discrimination or harassment or sexual misconduct.

Retaliatory actions include, but are not limited to, threats or actual violence against a person or their property, adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism. The university will impose sanctions on any faculty, student, or staff member found to be engaging in retaliation.

Please note the following potential consequences for knowingly making false statements or submitting false information.

### **For Students:**

#### **STAF 6.26 Student Code of Conduct**

##### *Prohibited Conduct*

*Fraudulent Behavior Prohibited behaviors include: a. Fraudulent behavior in any oral or written transaction with the university. b. Dishonesty or misrepresenting the truth before a hearing of the university or furnishing false information or withholding information to any university official which interferes with university processes or procedures.*

*One or more of the following sanctions may be utilized to provide educational interventions and to hold a student accountable. The severity of the sanctions will align with the severity of the offense and community standards and will*

increase with subsequent violations of the Code of Conduct. Although not an exhaustive list, the following are examples of sanctions that may be applied:

1. Educational workshops;
2. Conduct probation;
3. Reflection papers;  
(The topic and essay questions assigned will depend on the incident type)
4. Community service;
5. Fines;
6. Disciplinary withdrawal;
7. Housing relocation, removal from housing, cancellation of housing contract;
8. Delayed suspension, suspension, or expulsion;
9. Degree revocation.

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### **For Faculty and Staff**

#### **HR 1.39 Disciplinary Action and Termination for Cause**

##### **Falsification:**

*Failure to provide accurate, truthful, and complete information.*

*First Offense: Written Reprimand to Suspension;*

*Second Offense: Suspension to Dismissal;*

*Third Offense: Dismissal.*

If you experience any retaliation, or if you have any questions or concerns, please contact me at {{PHONE}} or {{CURRENTLY\_ASSIGNED\_HEARING\_OFFICER\_EMAIL}}

Sincerely,