

SEXUAL MISCONDUCT ADJUDICATION PROCESS FOR STUDENTS (SMAPS)

Office of Equal Opportunity

Purpose: This is the investigation and adjudication process for Complaints made by students, staff and faculty members and third parties (as defined in the Non-Discrimination Policy, including visitors, patients, contractors, vendors and community members) or the University's Title IX Coordinator (as part of an Administrative Complaint) alleging sex/gender-based discrimination, harassment, sexual misconduct and/or related retaliation involving a student.

Applicability: Effective August 1, 2024, this Process applies to students, staff, faculty members, job applicants or applicants for admission and/or third parties (as defined in the Non-Discrimination Policy, including visitors, patients, contractors, vendors and community members) involving a student and alleging sex/gender-based discrimination, harassment, sexual misconduct and/or related retaliation reported to have occurred on August 1, 2024, or later.¹

Process owner: Executive Director of the Office of Equal Opportunity and Title IX Coordinator, Jill Zellmer, at 617.627.3298 or Jill.Zellmer@tufts.edu.

Revised: August 1, 2024

¹ For reports of discrimination, harassment, sexual misconduct and/or related retaliation reported to have occurred prior to August 1, 2024, see Pre-August 2024 policies and procedures, <https://oeo.tufts.edu/policies-procedures/sexual-misconduct/>

I. Overview

Tufts takes all Complaints seriously. OEO is required by law to investigate Complaints and does so through the corresponding process. The Sexual Misconduct Adjudication Process for Students (SMAPS) is the adjudication process for Complaints of sex/gender-based harassment, sexual misconduct and/or related retaliation involving a student and brought under the Tufts Non-Discrimination Policy (the “Policy”) [LINK](#).¹ This alleged conduct may also implicate other Tufts policies such as the Relationships with Students Policy, https://oio.tufts.edu/wp-content/uploads/PolicyonRelationships_2021.pdf and the Working with One Another Policy, <https://oio.tufts.edu/wp-content/uploads/WorkingWithOneAnotherPolicy.pdf>, depending on the allegations and will be adjudicated under this process.

II. Before Filing a Complaint

The decision to file a Complaint for investigation and adjudication can be complicated and challenging. The OEO’s [Explanation of Informal Process Options](#), as well as the [Resources and Supports page on the OEO website \(OEO.Tufts.edu\)](#) offers community members information about their options. Community members who wish to discuss concerns about sex/gender-based discrimination, harassment, sexual misconduct and/or related retaliation may also consult with [on- or off-campus resources](#), as described in the Non-Discrimination Policy [LINK](#). Some offices are confidential and are noted as such in this and other documents.

Community members can also discuss resources, supports and process options with a member of [OEO](#). More information about anonymous and confidential reporting and about [Complaint processing options](#) and supports and [resources](#), is provided on the [OEO](#) website at <https://oio.tufts.edu>.

III. Resources and Support

Tufts will offer and coordinate supportive measures and/or [Resources and Supports](#), <https://oio.tufts.edu/resources/on-and-off-campus/>, as appropriate for the complainant, respondent or any party otherwise impacted by reports of sex/gender-based harassment, sexual misconduct and related retaliation regardless of the initiation of a SMAPS. Information about [supportive/interim measures can also here](#).

IV. Timelines

¹ Complaints of sex/gender-based harassment, sexual misconduct and/or related retaliation not involving a student party will proceed under Standard Operating Procedures for Discrimination Complaints (STOP-D). [LINK](#)

Following receipt of a Complaint of sex/gender-based discrimination, harassment, sexual misconduct and related retaliation involving a student party, Tufts will promptly proceed with a SMAPS to the extent possible and appropriate according to the circumstances for each case and/or may refer alleged conduct to be reviewed under a different policy, if relevant. Tufts' goal is to complete the adjudication of Complaints filed within 120 University business days from the receipt of the Complaint, not including any appeals processes, which are expected to resolve within 45 business days. (See [Timeline, https://oeo.tufts.edu/wp-content/uploads/TitleXProcessTimeline.pdf](https://oeo.tufts.edu/wp-content/uploads/TitleXProcessTimeline.pdf).) Depending on the complexity of the investigation, the severity and extent of the conduct alleged or for other good cause, more or less time may be required to complete this investigation and adjudication process. OEO will provide written notice of any extension to the parties, including the reason for the delay. Parties are encouraged to contact OEO for periodic status updates during the investigation and/or the adjudication process.

Tufts will make every effort to continue its investigation during academic breaks or between academic years, unless doing so would impact witness availability or otherwise compromise the investigation.

There is no time limit for the submission of a Complaint under the SMAPS. A Complaint may be filed at any time and will be pursued if Tufts has disciplinary authority over the respondent. Although Tufts will investigate and adjudicate Complaints to the best of its ability, sometimes the passage of time may have an impact on the availability and quality of information about an incident of sex/gender-based discrimination, harassment, sexual misconduct and/or related retaliation, limiting both the University's ability to investigate and/or the types of sanctions that can be applied.

V. Evidence Standard and Sanctions

Tufts applies the preponderance of the evidence standard in the SMAPS to determine whether the reported sex/gender-based harassment, sexual misconduct and/or related retaliation has occurred. The preponderance of the evidence standard applies to any factual issue which will need to be decided. Adjudication panels will also use this standard of proof to determine whether there has been a Policy violation. In short, the decision of the SMAPS Panel will be made based on whether the facts found support a finding that is "more likely than not" that the Non-Discrimination Policy was violated. The SMAPS Panel decision will be reached by a majority. If a majority of the SMAPS Panel agrees it is more likely than not, based on the facts of the case, that there was a Policy violation, the SMAPS Panel will issue a finding of responsibility with a

corresponding sanction/discipline and any remedies to be provided. If a respondent is found responsible, the disciplinary decision will become part of their personnel file if they are an employee. If the respondent is a student, the finding of responsibility and discipline will become a part of their student record and transcript (i.e., staff or faculty may have the SMAPS or STOP-D decision placed in their personnel file, and a student's transcript may say, for example, "Suspended September 2020-May 2021."). Please see the [sanctioning guidelines](#) for the Panel if the Respondent is a student.

Violations of the Policy are subject to disciplinary action. Depending on the nature of the violation, disciplinary consequences for violations of the Policy for students may include denial of privileges, disciplinary probation, suspension, diploma holds and expulsion for students. Disciplinary consequences for violation of this policy for employees may include warnings (verbal or written), demotions, suspensions and termination if they are the respondent found responsible.

VI. No Retaliation

Tufts prohibits retaliation against any individual who submits a good faith report or Complaint of sex/gender-based harassment or sexual misconduct, or who in any way assists, participates, or (where permitted) refuses to participate in a SMAPS, including in the informal resolution process or in the investigation and adjudication. For more information about retaliation, please refer to the Policy [LINK](#).

Tufts takes seriously all reports of retaliation and will promptly and equitably address retaliatory behavior by an individual, including students, faculty, staff or third parties as defined in the Policy. Any person found to have engaged in retaliatory conduct is subject to appropriate action by the University, including disciplinary action, if appropriate. Tufts may consolidate and apply SMAPS to Complaints of retaliation and sex/gender-based harassment and/or sexual misconduct involving students when the allegations arise out of the same facts or circumstances. Tufts will provide supportive/interim measures and/or other resources in response to related retaliation concerns, as appropriate, to stop prohibited conduct, prevent its recurrence, prevent and/or eliminate any hostile environment, and where appropriate, address any effects on community members or the Tufts community from such conduct.

Retaliation for participation in SMAPS should be reported promptly to the Executive Director of the OEO/Title IX Coordinator, Jill Zellmer, at 617.627.3298 or jill.zellmer@tufts.edu. The [Tufts](#)

[University Police Department](#) (TUPD) may also be able to address retaliation by a person not affiliated with the University. TUPD has specially trained sexual misconduct officers who can also provide safety plans around campus.

VII. Definitions

For more information about definitions, please see the Non-Discrimination Policy definition section and other relevant sections, which will control.

Complainant: The students, staff members, faculty members, job applicants or applicants for admission or third parties who allege they were subjected to sex/gender-based harassment, sexual misconduct or related retaliation. In order to bring a Complaint of sex/gender-based harassment, sexual misconduct or related retaliation, a complainant must have been participating or attempting to participate in the University’s education program or activity at the time of the alleged prohibited conduct on August 1, 2024, or after. The complainant will be given a copy of the [Notice of Allegations/Charge Letter](#) when it is sent to the respondent (see below).

Respondent: The person(s) against whom a Complaint of sex/gender-based harassment, sexual misconduct and/or related retaliation is filed through the SMAPS. There may be more than one respondent in a case or the respondent may be a group, organization or entity. The respondent will be given written notification in the form of the [Notice of Allegations/Charge Letter](#), <https://oeo.tufts.edu/wp-content/uploads/AssessmentofAllegations.pdf> document when an investigation begins against them.

Reporting Party: Any individual who raises a concern about an alleged Policy violation on behalf of themselves or another person. In some circumstances, a reporting party may also be a complainant. In other circumstances, the reporting party may be a “Responsible Employee” or third party as defined in the Policy [LINK](#).

Administrative Complaint: The Title IX Coordinator, on behalf of Tufts, may independently initiate a Complaint under the SMAPS, called an Administrative Complaint. This type of Complaint may be initiated in situations where a complainant is reluctant, unable or uninterested in initiating a Complaint directly or if the University believes there may be a concern of a hostile environment (climate concern). In these situations, the Title IX Coordinator has the option to initiate an Administrative Complaint under the SMAPS according to a set of factors set forth in the Policy (“University-Initiated Administrative Complaints”). OEO reserves the right to

process an Administrative Complaint informally using the Explanation of Informal Process Options, <https://oeo.tufts.edu/wp-content/uploads/ExplanationofInformalProcessOptions.pdf>. At times, the Dean of Students at the applicable School may assume the complainant status in an Administrative Complaint.

Consolidation of Complaints: As noted in the Policy, when allegations of prohibited conduct are connected to other alleged misconduct by the respondent which would ordinarily be addressed by another University policy, Tufts may, in its sole discretion, address all related conduct in a consolidated manner. Tufts may consolidate complaints of sex/gender-based harassment, sexual misconduct and/or related retaliation against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex/gender-based harassment, sexual misconduct and/or related retaliation arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references to a party, complainant, or respondent include the plural, as applicable.

VIII. SMAPS Process

A. General Provisions

Tufts will treat Complainants and Respondents equitably.

The University requires the Title IX Coordinator, Investigator or the three adjudication panel members (SMAPS Panel) not to have a conflict of interest or bias for or against complainants or respondents generally or toward an individual complainant or respondent.

Tufts presumes the respondent is not responsible for the alleged prohibited conduct until a determination is made at the conclusion of the SMAPS.

The University will take reasonable steps to protect the privacy of the parties and witnesses during the SMAPS. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consulting with their family members, confidential resources, or advisors; or otherwise preparing for or participating in the SMAPS procedures. The parties cannot engage in retaliation, including against witnesses. For more information about the Tufts privacy-related expectations, refer to the Policy and/or the OEO [Privacy and Non-Retaliation Form](#).

The SMAPS Panel will objectively evaluate all relevant evidence which is not otherwise impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent or witness. The SMAPS Panel may choose to place less or no weight upon statements by a party or witness who refuses to respond to relevant questions. The Adjudication Panel must also not draw an inference about whether sex/gender-based harassment, sexual misconduct and/or related retaliation occurred based solely on such a refusal.

Relevant evidence is information which is related to the allegations of prohibited conduct at issue and may help to determine whether the alleged prohibited conduct occurred. Questions are relevant if they may aid in showing whether the alleged prohibited conduct occurred. Evidence is relevant if it may aid the SMAPS Panel in determining whether the alleged prohibited conduct occurred. The following types of evidence and questions are impermissible (i.e., will not be accessed, considered, disclosed or used, except by OEO to determine whether one of the exceptions listed below applies), regardless of whether they are otherwise relevant:

- Evidence protected under a privilege recognized by federal or state law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality (i.e., chaplain, therapist, doctor);
- A party's or witness's records made or maintained by a physician, psychologist or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Tufts obtains that party's or witness's voluntary, written consent for use in the adjudication process; and
- Evidence and questions relating to the complainant's sexual interests or prior sexual conduct, unless offered to prove someone other than the respondent committed the alleged conduct; or if evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex/gender-based harassment or sexual misconduct. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex/gender-based harassment or sexual misconduct; or preclude a determination that sex/gender-based harassment or sexual misconduct occurred.

B. Assessment of Allegations Phase, Initial Steps and Considerations

After receiving a report of sex/gender-based harassment, sexual misconduct and/or related retaliation, the Title IX Coordinator³ will take several initial steps. These initial steps are *not* an

³ Where the term "Title IX Coordinator" is used, the reference should be read to, unless specified otherwise, refer to the Title IX Coordinator as well as any of her designees.

investigation but are called the [Assessment of the Allegations](#). This assessment will enable Tufts to determine if any immediate action is necessary to address the safety and health needs ([supportive/interim measures](#)) of the parties involved and to help the parties determine the next appropriate steps, whether under the Policy or with a referral to another policy.

These initial steps and considerations may include, but are not limited to, the following:

1. The Title IX Coordinator will contact the party making the initial allegation (the “reporting party”) and encourage them to meet virtually or in person to discuss the nature and circumstances of the reported conduct, to explain [what to expect](#), to review relevant and available documentation and to describe this process and the various options available to them ([Explanation of Informal Process Options and SMAPS flowchart](#)).

2. Regardless of whether a reporting party is permitted under the Policy to, or otherwise decides to, participate in this investigation and adjudication process, they may be entitled to supportive measures and/or [Resources and Supports](#). OEO provides information about supportive measures to all reporting parties, regardless of whether they want to follow an OEO process or not.² [Supportive/interim measures](#) are non-disciplinary, non-punitive individualized services, offered as appropriate and as reasonably available, without fee or charge, to either the reporting party or the respondent before or after the filing of a Complaint or where no Complaint has been filed. Supportive measures are designed to restore or preserve equal access to the University’s educational programs or activities, including employment (including by protecting the safety of the parties and/or the Tufts educational environment), and they will be designed so as not to unreasonably burden any party. For more information about supportive measures, please refer to the Policy [LINK](#) and/or [Supportive/Interim Measures](#) including [No Contact Orders](#).

If, at this time, the complainant, if known, declines to participate in the investigation and/or adjudication process, Tufts will weigh this request against its own obligations. As noted, the University reserves the right to move forward with a Complaint process unilaterally through an [Administrative Complaint](#) against a known respondent. The Administrative Complaint will be utilized according to a set of factors set forth in the Policy [LINK](#) under the University-Initiated (Administrative) Complaints section. The reporting party can decide how much or how little they want to be involved in the investigation/adjudication process if Tufts moves forward with an Administrative Complaint. OEO will never force a student party to participate

² Based on the facts and the choices of the reporting party, a reporting party could become the complainant, as defined in the Policy [LINK](#), once they decide to file a Complaint.

if they do not wish to be a part of this process. Parties who are employees, however, have a duty to cooperate as explained in the Non-Discrimination Policy section, Duty to Cooperate. [LINK](#). All parties are entitled to resources and supports regardless of their status or level of participation in this process.

3. The OEO prefers to confirm a complainant's statement in writing prior to beginning an investigation. If relevant information is not known, a complaint may be dismissed (after reasonable attempts to clarify it) but will be logged and counted in OEO for future tracking of patterns and trends.

4. The Title IX Coordinator or designee will notify the parties in writing of the following and allow for sufficient time for the parties to prepare a response:

- Any offers of an informal resolution process;
- The identities of the parties involved in the incident(s), the conduct alleged to constitute sex/gender-based harassment and the date(s) and location(s) of the alleged incident(s), if known;
- Retaliation is prohibited, as described in the Non-Discrimination Policy [LINK](#), which outlines the expectation that the parties will refrain from retaliation and consider the important principles of privacy and discretion as the investigation and the adjudication proceeds;
- The respondent is presumed not responsible for the alleged sex/gender-based harassment, sexual misconduct and or related retaliation until a determination is made at the conclusion of the SMAPS. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision-maker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney, as described in the [Right to Advisor](#) form. If a party does not have an advisor, the OEO will, upon request, appoint one of Tufts' choosing at the reasonable expense of the University.

The parties are entitled to an investigative report which will summarize all relevant and not otherwise impermissible evidence and retain an equal opportunity to access the relevant and not otherwise impermissible evidence. This information will be made available at the same time to the parties and their

advisors, if any, on ONEHUB, a secure, web-based portal;

- Knowingly making false statements or submitting false information is prohibited;
- Information about [Supportive/Interim Measures](#);
- A statement that Tufts uses the preponderance of evidence standard of proof when considering the facts and evidence;
- The range of possible disciplinary sanctions and remedies. For student respondents, see the [disciplinary guidelines](#); for employee respondents, the range of sanctions are from verbal or written warnings in their personnel file up to and including termination;
- Information about the appeals process (please see Policy [LINK](#)).

If, during an investigation, Tufts decides to investigate additional allegations of sex/gender-based harassment, sexual misconduct and/or related retaliation against the respondent which are not included in the written notice or are included in a consolidated Complaint, OEO will provide written notice of the additional allegations to the relevant parties in an updated [Notice of Allegations/Charge Letter](#). If Tufts has reasonable concerns for the safety of any person as a result of providing this notice, it may reasonably delay in providing this letter in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes. OEO typically issues an automatic [NCO](#) between the parties to prevent contact and potential retaliation during the investigation and adjudication process. Parties can work with the OEO Resources and Supports Specialist, April Robbins, April.Robbins@tufts.edu if they have safety and/or other concerns.

5. In some cases where allegations may warrant emergency removal of a student respondent, the Title IX Coordinator, in consultation with others including the TUPD and the corresponding Dean of Students (or their designee), as needed, may conduct an individualized safety and risk analysis to determine if a student respondent poses an immediate and serious threat to the health or safety of a complainant or any students, employees or other persons arising from the allegations of prohibited conduct. If this analysis results in an affirmative, the student respondent is subject to emergency removal. If emergency removal is warranted, the student respondent will be removed from Tufts programs or activities, in whole or in part, pending the outcome of the investigation and adjudication process. The removed party will be informed in writing of this decision and its basis. The student respondent may seek an appeal

of this decision immediately following their removal by submitting a written response which will be reviewed by an external appellate decision-maker.

Tufts reserves the right to place a respondent employee on administrative leave pending the outcome of the investigation and adjudication process. Community member respondents may also be subject to separation or campus removal (i.e. contractors, vendors or patients) pending the outcome of the investigation and adjudication process. Employee administrative leaves may include complete removal from the workplace or limitations on access to the workplace and may be imposed with or without pay. In the event such a leave or separation is imposed, the respondent will be given the opportunity to seek modification or reversal of this leave or separation through a request to the Resources and Supports Specialist and/or the Title IX Coordinator. Nothing in this process shall be construed to limit or modify such individuals' rights under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*

6. In the event of a report to law enforcement for conduct which is potentially criminal in nature, such a report will not change Tufts' obligation to potentially investigate the matter, but it may briefly delay the timing of the investigation if a law enforcement agency requests the University to delay its process for a reasonable amount of time in order to gather evidence of criminal conduct. Tufts will typically not consider the outcome of such a criminal proceeding even if the facts are the same because the University does not use the same process or standard of proof as a criminal process. Tufts may inquire about criminal processes if they impact an individual's ability to access or utilize the SMAPS. In no instance will the commencement of a concurrent criminal proceeding, by itself, lead to an adverse inference against the respondent.

7. The Title IX Coordinator or designee will review all Complaints and, unless grounds for dismissal are identified, the matter will move from the Assessment Phase to the next phase of this process. Please see SMAPS process [flowchart](#).

8. As noted in the Policy, the Title IX Coordinator or designee may dismiss a Complaint if at any time it is determined that:

- Tufts is unable to identify the respondent after taking reasonable steps to do so;

- The respondent is not, or is no longer, participating in the University's education program or activity and/or is not, or is no longer, employed by Tufts;
- The University obtains the complainant's voluntary withdrawal in writing of any or all the allegations; the Title IX Coordinator declines to initiate an Administrative Complaint and the Title IX Coordinator determines that without the complainant's withdrawn allegations, the remaining conduct alleged in the Complaint, if any, would not constitute sex/gender-based harassment, sexual misconduct and/or related retaliation even if proven; or
- Tufts determines that the conduct alleged in the Complaint, even if proven, would not constitute sex/gender-based harassment, sexual misconduct or related retaliation. Before dismissing the Complaint, the Title IX Coordinator or designee will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal of a Complaint, the OEO will promptly notify the complainant in writing of the basis for the Complaint's dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the OEO will notify the parties simultaneously in writing.

Tufts will notify the complainant that dismissal of a Complaint may be appealed on the bases outlined in the Appeals section below. If dismissal occurs after the respondent has been notified of the allegations, then Tufts will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Tufts will follow the procedures outlined in the Appeals section below.

When a Complaint is dismissed, Tufts will, at a minimum:

- Offer supportive measures to the complainant as appropriate
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator or designee, to ensure sex/gender-based discrimination does not continue or recur within the University's education program or activity.

This Complaint dismissal will not limit any individual's ability to provide additional information and/or to raise and/or resolve the matter through another appropriate OEO policy and process. For example, a claim of harassment that is based on race or disability status, even if proven, may not constitute sex/gender-based harassment, sexual misconduct and/or related retaliation. In this case, the OEO could refer the matter directly for review and resolution under a different Tufts or OEO policy or process.

C. The Investigation Phase

Notice of an Investigation. If OEO determines an investigation will begin ([assessment of allegations stage](#)), the Title IX Coordinator or designee will prepare the [Notice of Allegations/Charge Letter](#) to all parties. This written notice does not constitute a finding or a determination of responsibility. As noted, this written notice will be updated or amended if new allegations are raised and accepted and/or if OEO determines they need to consolidate the alleged prohibited conduct as outlined above.

D. Response to Complaint

After the respondent receives the [Notice of Allegations/Charge Letter](#), a respondent has two options:

Option One - Acceptance of the Charges: Five (5) business days after receiving the [Notice of Allegations/Charge Letter](#) and the Complainant's Statement or Administrative Complaint, the respondent may accept responsibility for the conduct alleged, in part or in whole.

If the respondent accepts responsibility for all the conduct alleged, the process does not proceed to a fact-finding investigation. If the respondent admits to the entirety of the allegations, the matter is referred to a SMAPS Panel to decide appropriate disciplinary action and any remedies to be provided. Once the respondent accepts responsibility, such acceptance cannot be withdrawn. The SMAPS Panel will issue a written finding of the respondent's acceptance of responsibility and will take the admission into consideration as a mitigating factor in determining appropriate disciplinary action.

If the respondent admits to some but not all the allegations, the outstanding allegations will proceed through the investigation process below. Once the investigation process

moves to the adjudication phase, the SMAPS Panel will review the fact-finding investigative report, commence the adjudication hearing process and subsequently issue a written finding based on the preponderance of evidence in accordance with the process in Option Two below.

The SMAPS final decision may become part of the respondent's student records if they are a student and may become part of the employee's personnel records if they are an employee. The SMAPS final decision will be shared with the complainant at the same time as it is shared with the respondent.

Option Two - If the respondent does not accept responsibility for the conduct alleged, they must provide a written response within ten (10) business days of receipt of the [Notice of the Allegations/Charge Letter](#) and Complainant's Statement/Administrative Complaint. The interview phase of the investigation now begins.

Students involved in this process do not have to participate in the investigation and/or adjudication. Investigators and the SMAPS Panel will not make any inferences or findings based on or about the allegations, either from a student's participation, or lack thereof. Employees have a duty to cooperate in both the investigation and in the SMAPS Panel as defined in the Policy [LINK](#). A notation will be made in the Final Investigative Report if a party or witness decides not to participate in the SMAPS.

E. Information about Advisors

In connection with an allegation of sex/gender-based harassment, sexual misconduct and/or related retaliation, Tufts will provide the parties with the same opportunities for a single advisor to accompany them to any meeting or proceeding. The single advisor can either be hired by the party or, if they do not have one, OEO will appoint and pay for one. Advisors may be, but are not required to be, an attorney ([Right to Advisor](#)). The advisor may only advise their respective party privately and cannot act as a speaking advocate. Tufts staff and internal/external Investigators may delay or terminate meetings or proceedings, remove advisors and/or proceed with the meeting or proceeding if an advisor is disruptive or otherwise refuses to comply with the requirements of this process.

An advisor is subject to the same expectations applicable to others in attendance and, like the parties and witnesses, must sign a [Privacy and Non-Retaliation Acknowledgement](#) form before

the hearing. Unreasonable requests for the rescheduling of interviews or reviews will not be granted for any advisors, in general. Advisors are not permitted to attend a meeting or proceeding without the party they advise being present unless they have received prior approval of the Title IX Coordinator. Tufts reserves the right to take appropriate action regarding any advisor who disrupts the process, who does not abide by the restrictions on their participation as described in the [Right to an Advisor](#) letter, or who unreasonably delays, in whole or in part, this process.

Both parties must return the [Right to an Advisor](#) letter to OEO with the name, address, phone number and email of their advisor, if they have one, within a week after receipt of the [Notice of the Allegations/Charge Letter](#). Parties may change advisors but need to inform the OEO promptly of their new advisor. Parties can request an informal resolution process at this time, if appropriate. OEO cannot force any party to agree to an informal process or resolution. OEO will inform the parties of the process which will apply to the matter and answer any questions they may have about the process ([Explanation of Informal Process Option](#)).⁹

F. Designation of Investigator

The Title IX Coordinator will designate at least one Investigator to conduct a prompt, adequate, reliable, fair and impartial fact-finding investigation of the reported conduct and prepare a draft report of the investigative fact findings (the “Draft Investigative Report”). All Investigators selected will be qualified and trained individuals employed by or engaged by Tufts for the purpose of conducting investigations under the Non-Discrimination Policy. The Title IX Coordinator or designee will provide the parties with the name of the person(s) assigned to investigate the reported conduct and introduce the Investigator(s) to the parties and advisors, separately, by email. As soon as possible, but no later than three (3) business days after delivery of the identity of the Investigator(s), the parties shall inform the Title IX Coordinator or designee in writing of any concerns about conflicts of interest or bias regarding the selected Investigator(s). The Title IX Coordinator or designee will consider the nature of the conflict or bias alleged and determine if different individual(s) should be assigned as Investigator(s). Other than as described in the Appeals section of the SMAPS below, the Title IX Coordinator’s decision regarding any conflicts or alleged bias is final. The Title IX

⁹ The parties are prohibited from using the informal process improperly (e.g. harassment or delay). The Title IX Coordinator may decline to pursue the informal process or terminate the informal process at her discretion.

Coordinator may consult with other Tufts personnel to discuss any conflicts of interest or bias.

G. Nature of the Investigation

Tufts will provide a prompt, adequate, reliable, fair and impartial investigation. The burden is on the University—not on the parties—to conduct an investigation and gather sufficient evidence to determine whether sex/gender-based harassment, sexual misconduct and/or related retaliation occurred. The investigation will include transcripts of interviews with the complainant, the respondent and any relevant witnesses. The Investigator(s) will provide the parties with advance notice of meetings at which their presence is required. Complainants, respondents and witnesses are free to take notes during the interviews but are not permitted to audio or visually record the interviews or any part of these proceedings.

H. The Parties' Identification of Potential Witnesses and Documentation

Tufts will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence which may be relevant and not otherwise impermissible. The parties have the opportunity to provide the Investigator(s) with the identification of potential witnesses who have specific information about the reported conduct and with whom they would like the Investigator(s) to speak. The parties also have the opportunity to provide the Investigator(s) any documentation or other items they would like to be considered and any relevant (and not otherwise impermissible) questions they would like asked of the other party and any witnesses. All information described in this section must be presented to the Investigator(s) in writing and include a brief description as to how the persons, documents and/or items and/or questions are relevant to the reported conduct. This information must be provided to the Investigator(s) during the Investigation Phase and without delay. The Investigator(s) will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Furthermore, the Investigator(s) reserve(s) the right to interview any member of the Tufts community who may have specific information about the incident reported even if they were not identified as a witness by a party.

Before the draft investigation report is finalized for the SMAPS Panel, the Investigator will provide the parties with access to the draft report via ONEHUB. Both parties will be given the opportunity to submit questions and other information they deem relevant to the Investigator who will share the questions with and seek answers from the other party. This process should take no more than ten (10) University business days. Once this timeline has passed (or before if the parties submit their information sooner), the Investigator(s) will review the new information and modify the draft report, if necessary, and will also include the written questions and responses from both parties into an addendum of the draft report for the record. The Investigator(s) will then submit the Final Report (including the Addendum) to the Title IX Coordinator or her designee who will then give access to the SMAPS Panel members and parties via ONEHUB. See [SMAPS flowchart](#) for an infographic of this process. If both parties agree, the Title IX Coordinator or her designee will arrange a Pre-Hearing Conference so all parties and their advisors, if any, understand the rules of engagement for the Adjudication hearing.

I. Investigation Prohibitions

At no point will the investigation require both parties to physically be in the same room. At no point will either party or an advisor be permitted to directly question or cross-examine the other party or any witness during the investigation, adjudication hearing or appeal process. The parties may ask questions of the other party and/or witnesses through the Investigator(s) during the review of the draft report (as outlined above) and at the Adjudication Hearing, described below. All such questions must be asked through the Investigator(s) during the investigative phase of the process; all these questions and answers will be included in the addendum of the investigative report. The parties can also ask the Adjudication Chair to ask specific questions of any party or witness during the live, recorded adjudication; the Adjudication Chair may ask the parties these questions based on their determination of relevancy. Neither the Investigator(s) nor the Adjudication Chair will consider questions pertaining to information which is impermissible, even if it would otherwise be relevant.

The Investigator(s) or Adjudication Chair, as applicable, will determine whether a proposed question is relevant and not otherwise impermissible before it is answered and will explain any decision to exclude a question as not relevant or as otherwise impermissible. All relevant, not otherwise impermissible, questions will be asked. Questions that are unclear or harassing of the party or witness being questioned may be excluded, but prior to doing so, the party posing the question will be given the opportunity to clarify or revise the question. The parties and advisors,

if applicable, will receive access to the recorded adjudication hearing via ONEHUB at the same time.

J. Other Informal Processes

At any time prior to convening a Pre-Hearing Conference, either party may request from the Title IX Coordinator an [informal resolution](#) of the Complaint rather than an investigation and/or adjudication hearing. Tufts will inform the parties in writing of any informal resolution process it offers and determines appropriate, if any. The University will not offer informal options for resolution to resolve a complaint when such a process conflicts with federal, state, or local law. Tufts may also decline to permit an informal resolution process when it determines that the alleged conduct presents a future risk of harm to others. Generally, Tufts does not consider an informal resolution process to be appropriate if the allegations include sexual assault, stalking and/or interpersonal/dating/relationship violence and/or domestic violence or when there is a power imbalance between the complainant and respondent. Before the initiation of an informal resolution process, the OEO will explain in writing to the parties:

- The [Notice of Allegations/Charge Letter](#);
- The requirements of the [informal resolution](#) process;
- Any party has the right to withdraw from the informal resolution process and initiate or resume the investigation and/or adjudication process at any time before agreeing to an informal resolution;
- If the parties resolve the matter through an informal resolution process, they cannot initiate or resume investigation and/or adjudication procedures arising from the same allegations;
- The potential terms requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and

- What and how Tufts will maintain related information and documents relevant to the informal resolution and whether and how the University could disclose such information in the Title IX adjudication process, if such procedures are initiated or resumed.

The Title IX Coordinator may designate an OEO employee, University representative, or external support to afford the parties the agreed upon informal option. The Title IX Coordinator can end such a process if it becomes unproductive, abusive or is being used in a way which is not productive.

The Complaint will only be deemed resolved when the Parties expressly agree to an outcome acceptable to them and the Title IX Coordinator approves it, in consultation with other appropriate administrators, if necessary. The informal resolution process will be conducted in accordance with procedures specified by the Title IX Coordinator, as determined in her sole discretion, and outlined for the parties in the [Explanation of Informal Process Options](#). Informal process options and potential corresponding resolutions are case specific. OEO will craft a written document to memorialize the generally agreed upon informal resolution and ask both parties to sign it.

As participation is voluntary, Tufts does not require parties to waive the right to an investigation and adjudication as a condition of (continuing) enrollment or (continuing) employment, or the exercise of any other right. While every informal resolution process will be tailored to the facts and circumstances of the individual case, in no case will the facilitator of the informal resolution process be the same as the Investigator or adjudication Panel for the same matter unless both parties agree to it.

K. Access to Evidence and Determination of the Adjudication Hearing

- I. **Access to Evidence** Tufts will provide each party and the party's advisor with an equal opportunity to access the evidence, including all transcripts of interviews, which is relevant to the allegations of sex/gender-based harassment, sexual misconduct and/or related retaliation and which is not otherwise impermissible, in the following manner:

- Tufts will provide an equal opportunity to access and review the relevant and not otherwise impermissible evidence via ONEHUB, a secure web-based portal where parties can read the evidence/draft report, including the questions and answers submitted through the Investigator (typically in an addendum) as well as the Final Investigative Report;
- Tufts will provide a reasonable opportunity to review and respond to the evidence. The University will provide this opportunity to review the evidence and for the parties to respond to the Investigator’s questions and draft report prior to the adjudication. Parties will submit their responses to the questions and draft report within ten (10) university business days of accessing the draft report; and
- As noted in the Policy, Tufts will take reasonable steps to prevent and address the parties’ and their advisors’ unauthorized disclosure of information and evidence obtained solely through the SMAPS. In particular, ONEHUB access is “read-only” and documents on ONEHUB are designed not to be shared, copied/pasted or otherwise duplicated.

L. Response from the Parties

The responses submitted by the parties, if any, may not exceed ten (10) double spaced pages unless a higher page limit is otherwise determined to be necessary and appropriate in the sole discretion of the Title IX Coordinator. After reviewing the submissions from the parties, the Investigator(s) may determine either additional investigation is required, including asking each party to respond to additional questions, or that no further investigation is needed. If the Investigator(s) and/or the Title IX Coordinator determine further investigation is needed, the Investigator(s) will add any additional relevant (not otherwise impermissible) information obtained to the evidence and/or Draft Investigative Report, and will provide both parties an equal opportunity to review it and submit a written response within five (5) university business days of the date they are notified the evidence is available for review on ONEHUB. This step may be skipped if the Investigators(s) and/or the Title IX Coordinator determines no further information needs to be added to the draft investigation report. In this case, the draft report becomes the Final Investigation Report and all relevant parties as well as the Adjudication Panel are given access to it via ONEHUB. Any submissions made by either party pursuant to this section, as well as any

other documentation deemed relevant by the Investigator(s), will be attached to the Final Investigative Report.

If, at any point in this review process, either in the investigation phase or in the adjudication phase, it becomes apparent that a party will not be participating in the live, recorded adjudication hearing, the investigation and adjudication will nonetheless move forward. In the event a party or witness appears for an interview or for the adjudication hearing but refuses to answer questions, the Investigator(s) and/or the SMAPS Panel can make its determination using the evidence available and may choose to place less or no weight upon statements the party or witnesses did not make to questions deemed relevant (and not otherwise impermissible). However, the Investigator(s) and/or the SMAPS Panel must not draw an inference about whether prohibited conduct occurred based solely on a party's or witness' failure to appear or refusal to respond to questions.

M. Pre-Adjudication Conference

Once the Final Investigative Report is completed, the parties and their advisors will either confirm they are ready for the adjudication without need for a Pre-Adjudication meeting or they will ask to meet with the Title IX Coordinator/Panel Chair to hear the rules of engagement for the adjudication. During this meeting, the Title IX Coordinator will confirm the appropriate process options available to the parties, based on the allegations addressed in the Final Investigative Report and the applicable policies. The parties will also have an opportunity to ask any questions about the process options and next steps. The Title IX Coordinator will confirm with the parties and their advisors as to an appropriate course for addressing any additional claims not already covered by this Process and will consider the wishes of the parties. The parties may still mutually agree to an informal resolution process at this time.

N. The Adjudication Conference: Conflicts and Provision of the Final Report

SMAPS Panel members will be asked if they have conflicts of interest or biases which would preclude them serving on the Adjudication Panel. The OEO will then inform the parties of the identity of the Adjudication Panel members. No later than three (3) business days after emailing the parties information about the identity of the assigned Adjudication Panel Members, the

parties should inform the Title IX Coordinator, in writing, of any conflicts of interest or biases regarding the selected Adjudicators. If a conflict of interest or bias is raised regarding any of the Adjudication Panel Members assigned, the Title IX Coordinator will consider the nature of the conflict or bias alleged and determine if a different Adjudication Panel Member should be assigned to hear the matter. Other than as described in the Appeals section of the SMAPS below, this decision regarding any conflicts or bias alleged is final. The Title IX Coordinator will then provide the Adjudication Panel with the Final Investigative Report and set a subsequent meeting date for the Adjudication.

O. Adjudication Panel

The Adjudication Panel will consist of a panel of three adjudicators, two chosen from the [List of Adjudicators](#) who OEO trains annually and who are Tufts employees, and a third OEO-trained external adjudicator who will be the Chair of the Adjudication Panel. Each Adjudication Panel Member will have an equal vote in the proceedings. The Adjudication Panel will decide as to whether or not the respondent is responsible for some or all the alleged sex/gender-based harassment, sexual misconduct and/or related retaliation (or any other alleged policy violations included in this process). The Adjudication Panel has the authority to accept the Final Investigative Report without seeking additional investigation or to ask the Investigator(s) to conduct additional investigation on specific points.

P. Pre-Hearing Conference

Prior to the SMAPS Adjudication Hearing, the Panel Chair will meet with the parties and their advisors to provide an overview of the SMAPS Hearing and to discuss at least the following topics associated with the SMAPS Hearing: schedule of witnesses; identification of any agreed-upon facts or evidence; discussion of the handling of any prior sexual history issues; and technology used in the hearing.

Q. SMAPS Hearing Process

Tufts will provide an adjudication process which enables the Adjudication Panel to question parties and witnesses to adequately assess a party's and/or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex/gender-based harassment, sexual misconduct and/or related retaliation, as well as any other consolidated alleged policy violations.

No later than ten (10) business days before the hearing, parties should inform the Title IX Officer of the identity of any advisor who will accompany them to the hearing. Please see [Right to an Advisor](#) document. The advisor may consult privately in a non-disruptive manner with their advisee during and/or at a recess in the adjudication hearing. Tufts reserves the right to take appropriate action regarding any advisor who disrupts the process or who does not abide by the restrictions on their participation as determined in the sole discretion of the Adjudication Chair, who may remove the advisor from the hearing.

Any Complaints of sex/gender-based harassment, sexual misconduct and/or related retaliation are adjudicated through this live and recorded hearing which will be conducted on Zoom or a similar platform. The Tufts process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will allow the Adjudication Panel to ask such questions in an organized and equitable format. Each party will be allowed an introductory statement and can then propose their questions to the Adjudication Panel and have those questions be asked by the Adjudication Panel to the relevant Party or witness, subject to the procedures for evaluating and limiting questions discussed below.

The following are the roles and processes to be followed during the live, recorded adjudication. The Adjudication Panel will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed to the appropriate party or witness. The Adjudication Panel will explain any decision to exclude a question as not relevant or otherwise impermissible. Unclear questions or questions deemed to harass a party or witness will not be permitted. The Adjudication Panel will give a party an opportunity to clarify or revise a question if the Adjudication Panel determines it is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked. Each Adjudication Panel will decide the order of operations for the SMAPS Hearing depending on the case and their need to learn facts in order to determine by a preponderance of evidence whether or not a policy violation occurred.

The Adjudication Chair will preside over the SMAPS Hearing and the SMAPS Panel will make the decision by a preponderance of the evidence as to whether the respondent violated the policy provisions at issue. The SMAPS Panel has broad authority to determine the process, timing and decorum at the adjudication hearing.

The SMAPS Hearing will be live, recorded and generally be conducted using technology (e.g., Zoom). Parties can be in separate rooms in OEO enabling the Adjudication Panel, the parties and their advisors to simultaneously see and hear each party, advisor and/or witness. In-person, recorded conferences may be conducted in OEO if every party agrees. At OEO's discretion, any or all parties, witnesses and other participants may appear at the live hearing virtually, with Zoom technology enabling participants simultaneously to see and hear each other.

If a party or witness does not appear at the scheduled SMAPS Hearing, the SMAPS Hearing may be held in their absence. If a party or witness refuses to respond to a question deemed relevant and not impermissible, the Adjudication Panel may choose to place less or no weight upon that person's statements. The Adjudication Panel will not draw an inference about whether sex-based harassment or sexual misconduct occurred based solely on a party's or witness's refusal to respond to such questions. The Adjudication Panel can consider the party's or witness's prior statements, including those in writing (such as emails and text messages), unless disallowed by applicable law or regulation.

Following the Panel's review of the Final Investigative Report, the SMAPS Hearing, and their thorough evaluation of all relevant and not otherwise impermissible evidence, the Adjudication Panel will:

- Use the preponderance of the evidence standard of proof to determine whether sex/gender-based harassment, sexual misconduct and/or related retaliation, or other consolidated alleged policy violations, occurred.
- Notify the parties simultaneously and in writing of the determination whether sex/gender-based harassment, sexual misconduct and/or related retaliation, or other policy violations, occurred including:
 - A description of the alleged prohibited conduct;

- Information about the Policy and/or other policies used to evaluate the allegations;
 - The Adjudication Panel's evaluation of the relevant and not otherwise impermissible evidence, and determination whether prohibited conduct occurred;
 - If the Adjudication Panel finds that prohibited conduct occurred, the specific behaviors for which the Respondent was found to be responsible, any disciplinary sanctions they impose on the Respondent, and/or whether any remedies will be provided; and
 - The University's procedures and permissible bases for the Complainant and Respondent to appeal.
-
- Not impose discipline on a respondent unless there is a determination at the conclusion of the SMAPS Hearing which finds the respondent responsible for engaging in prohibited conduct. If the respondent is found responsible, the Panel will determine when the discipline, if any, begins.
 - If the Adjudication Panel finds a party responsible, the Title IX Coordinator will provide de-identified information on prior sanctioning decisions, if the Adjudication Panel asks for it, so they can consider similar sanctions previously issued in similar matters, if any. This information will also be provided to the parties and advisors on ONEHUB.

If there is a determination of responsibility, the Title IX Coordinator will, as appropriate:

- Continue supportive measures and/or coordinate the provision and implementation of remedies to a complainant and other people the University identifies as having had equal access to Tufts' employment, education program or activity limited or denied by the sex/gender-based discrimination;
- Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
- Take other appropriate prompt and effective steps to ensure prohibited conduct does not continue or recur within the Tufts employment, education program or activity
- If the respondent has a prior record of discipline related to an OEO Policy, the Title IX Coordinator will inform the Adjudication Panel at this time. The sanctioning decision for the Adjudication Panel to make is then

made based on factors including the nature and gravity of the misconduct and any record of prior misconduct, if applicable.

- Not discipline a party, witness or others participating in the adjudication process for making a false statement or for engaging in consensual sexual conduct based solely on the determination of whether sex/gender-based harassment, sexual misconduct and/or related retaliation occurred.

OEO will create an audio or audiovisual recording of the adjudication hearing and give access to parties, their advisors and the Adjudication Panel for inspection and review on ONEHUB and/or for the purpose of appeals, if applicable. It will not be provided for distribution, unless otherwise required by law.

R. Appeals

Tufts will offer an appeal to the parties on the following bases:

1. Procedural irregularity that would have changed the outcome of the matter;
2. New evidence not available when the investigation occurred, the Adjudication Hearing was held, and/or when the finding or dismissal was made that would have changed the outcome of the matter; or
3. The Title IX Coordinator, Investigator, or Adjudication Panel member had a conflict of interest or bias (for or against complainants or respondents generally, or for or against the individual complainant or respondent) which would have changed the outcome of the matter.

The party submitting the appeal must set forth in detail the grounds for review and must attach all materials they wish to have considered in the appellate process within ten (10) university business days of receiving the Panel Decision.

If a party appeals a finding of responsibility, Tufts will:

- Notify the parties in writing of any appeal, including notice of the bases;
- Implement appeal procedures equally for the parties;
- Ensure the Appellate Officer is not the same individual who, as applicable, conducted the investigation, issued the Final Decision and/or made the finding of responsibility;
- Ensure the Appellate Officer has been trained consistent with the Title IX regulations and is free of conflicts of interest or bias;

- Communicate to the parties in writing that Tufts will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenge the outcome; and
- Promptly notify the parties in writing of the result of the appeal and the rationale for the result, called the Appellate Decision.

The Appellate Officer will decide to either uphold or modify the initial Adjudication Panel's Final Decision and/or the disciplinary sanctions/remedies, if applicable, and/or remand the case to the initial Adjudication Panel for further proceedings consistent with the Appellate Decision. The Appellate Decision will be issued to both parties and their advisors on ONEHUB.

S. Conclusion of the Case

The determination regarding responsibility becomes final either on the date Tufts provides the parties with the Appellate Decision or, if no party appeals, the date on which an appeal would no longer be considered timely.

Any additional procedures or bases for appeal which Tufts may offer will be equally available to all parties.

Following the conclusion of a SMAPS resulting in finding(s) of responsibility against the respondent, the respondent(s) should understand that any disciplinary sanction issued will be reviewed by the appropriate Dean or supervisor. In certain circumstances, this review may result in further process and additional responsive action. For instance, students enrolled in Tufts' graduate health sciences programs are subject to national or school-based ethical and professional requirements which may warrant further review of any SMAPS finding by the applicable Ethics and/or Professionalism Committees. In addition, respondents with pre-existing discipline should contact their appropriate Dean or supervisor with questions about the possible impact of any finding of responsibility on their ongoing student or employment status. In certain circumstances, a finding of responsibility for a student under the SMAPS may result in more severe discipline issued by the appropriate Dean or supervisor if there is a pre-existing record of discipline which would reasonably warrant it. Similarly, a finding of responsibility for an employee under the SMAPS may also result in further process beyond OEO (i.e. if the respondent is a faculty member there may be a tenure revocation process or if the respondent is a staff member and a union member, there may be different proceedings outside of OEO relevant to their union status).

T. Exceptional Circumstances

In exceptional circumstances Tufts reserves the right to determine, in its sole discretion, if it will address a report of sex/gender-based harassment outside of the process described in the SMAPS with regard to investigative approach, sanctions issued or any other aspect of the process which may interfere with the University reaching a fair and appropriate result. If Tufts determines the exercise of its options under this provision is warranted, its actions will nonetheless be in accord with Title IX and its regulations and will remain consistent with the spirit of the SMAPS to the extent possible. Factors applicable to these exceptional situations include those where the safety of the University community is at risk, the material facts of the matter are undisputed, there are extenuating circumstances involving either of the parties, or if the Title IX Coordinator, in consultation with appropriate administrators, determines it is in the best interest of Tufts and/or the community. If the University exercises this option, Tufts will explain to the parties any alternate processes it will take in the given situation and the reasons therefore, as appropriate