

# New England Conservatory Formal Review Process for Sex Discrimination Complaints

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## I. Jurisdiction and Scope of Process

This Formal Review Process for Sex Discrimination Complaints explains the process New England Conservatory (NEC) will use to review a complaint of a potential violation of NEC's [Policy Against Sex Discrimination](#) (the "Policy"). The Formal Review Process for Sex Discrimination Complaints applies to all complaints of violations of the Policy with the exception of complaints alleging sex-based harassment that involves either a student complainant or a student respondent, or both, which will be reviewed in accordance with the [Formal Review Process for Sex-Based Harassment Complaints Involving NEC Students](#). These two review processes are also referred to individually as a "Formal Review Process" or collectively as the "Formal Review Processes."<sup>1</sup> Under the Formal Review Processes, NEC will conduct an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred.

NEC's Title IX Coordinator should be contacted with any questions about the Policy or Formal Review Processes:

Katrina Chapman, Title IX Coordinator  
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Tel: 617-585-1299

Once NEC's Title IX Coordinator or designee (the "Title IX Officer") determines that a complaint includes allegations of Prohibited Conduct under the Policy, the Title IX Officer will provide a written notice to all known parties that will include the Title IX Officer's initial determination of which Formal Review Process will apply. This Formal Review Process for Sex Discrimination Complaints applies to all reports of sex discrimination alleged to have occurred in NEC's educational programs or activities as defined in the Policy.

In accordance with the regulations promulgated by the Department of Education ("DOE") in August 2024 (the "federal Title IX regulations"), this Formal Review Process for Sex Discrimination Complaints applies to complaints alleging prohibited conduct that occurred on or after August 1, 2024. Reports that involve allegations of Prohibited Conduct that occurred prior to August 1, 2024 will be reviewed in accordance with the most recently updated versions of NEC's Title IX Sexual Misconduct Policy and Gender-Based Misconduct Policy.<sup>2</sup>

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<sup>1</sup> If a complaint includes both allegations of sex-based harassment involving a student complainant or a student respondent and other potential violations of the Policy, the [Formal Review Process for Sex-Based Harassment Complaints Involving NEC Students](#) shall apply, subject to the Special Situations section of the Policy.

<sup>2</sup> Reports of prohibited conduct that occurred both before and after August 1, 2024 will be reviewed in accordance with the Policy, including the applicable Formal Review Processes identified in the Policy. Members of the NEC community with questions about which policy and/or Formal Review Process applies should contact the Title IX Coordinator.

## II. Investigation of Complaint

- A. Designation of Investigator.** The Title IX Officer will designate at least one investigator to conduct a prompt, fair, and impartial investigation of the reported conduct and prepare a report of investigative findings (the “Investigation Report”).<sup>3</sup> The Investigator will be a qualified and trained individual employed by or engaged by the Conservatory for the purpose of conducting investigations under the Policy, and shall have received training on issues relating to sex discrimination and investigatory procedures at NEC within a year of the date that they are designated by NEC to conduct the investigation.

The Title IX Officer will typically provide the Parties with the name of the person(s) assigned to investigate the reported conduct as identified in the notice letter within seven (7) business days of sending the notice of investigation. As soon as possible, but no later than three (3) business days after delivery of the identity of the Investigator, the Parties shall inform the Title IX Officer in writing of any conflicts of interest with regard to the selected Investigator(s). The Title IX Officer will consider the nature of the conflict and determine if different individuals should be assigned as Investigator(s). The Title IX Officer’s decision regarding any conflicts is final. The Title IX Officer may consult with other Conservatory personnel to discuss any conflicts of interest.

Subject to the availability of parties and witnesses, as well as relevant documentation, and depending on the scope of the complaint and other relevant factors, NEC expects that investigations will be concluded within ninety (90) days of the designation of the investigator.<sup>4</sup>

- B. Nature of the Investigation.** The Investigator retains discretion to determine how to conduct the investigation and what information is necessary and relevant. The investigation provides an opportunity for fact-finding and, to the extent possible, will include separate interviews with the Complainant, Respondent, and any relevant witnesses. The Investigator will provide the Parties with advance written notice of meetings at which their presence is required. Although formal rules of evidence will not apply, the investigator will not consider Impermissible Evidence as defined by the Policy. The investigation will be objective, thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. The investigator will review and consider both inculpatory (*i.e.*, proving the responsibility of a party) or exculpatory (*i.e.*, proving that a party did not commit the conduct alleged) evidence. Credibility determinations will not be based on a person’s status as a complainant, respondent, or witness. The parties will not be interviewed together or be required to meet during the investigation.

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<sup>3</sup> All references to the “investigator” in this Formal Review Process should be read to include “investigators” in the event that NEC designates more than one investigator to conduct the investigation of the formal complaint.

<sup>4</sup> This 90 day period is exclusive of the time needed to prepare the Investigation Report.

**C. The Parties' Identification of Potential Witness and Documentation.**

The Parties have the opportunity, and are expected, to provide the Investigators with: (i) the identification of potential witnesses who have specific information relevant to the complaint and with whom they would like the Investigator to speak; and (ii) any documentation or other items or questions they would like to be considered as part of the investigator's review. The Parties can provide both inculpatory and exculpatory evidence that is relevant and not otherwise impermissible. This information must be provided to the Investigator during the Investigation and without delay upon becoming aware of it. The Conservatory reserves the right to limit the submission of evidence and information that was within the party's possession or knowledge during the Investigation if the Conservatory determines that the information was withheld for strategic advantage.

The Parties are also encouraged to provide the Investigator with questions that they would like the Investigator to pose to the other party or witnesses. The Investigator is not obligated to ask these questions, but the Investigator will append the questions requested to be asked by either party to the Investigation Report, as well as a notation as to whether the questions were asked or not.

The Investigator will exercise discretion in their determination of what information identified by the Parties to consider and which potential witnesses can provide relevant information to the investigation. The Investigator may also review relevant documentation and interview other individuals not specifically identified by a party if the Investigator determines the documentation or interview(s) will provide specific information relevant to the complaint.

**III. Investigation Report**

**A. Content of the Investigation Report.** At the conclusion of the Investigation, the Investigator will prepare an initial Investigation Report without findings, which should include a summary of the factual information presented during the Investigation and a separate section where the Investigator points out relevant consistencies or inconsistencies (if any) between all sources of information. Attached to or made available with the Investigative Report, the Investigator will provide any relevant evidence gathered, whether inculpatory or exculpatory. The initial Investigation Report will not include a determination as to whether a party has violated the Policy or what sanctions may be appropriate. These determinations will be made after the Parties' review of the report.

**B. Review by the Parties.** The Parties will be given an opportunity to review the entire Investigation Report and to submit written comments and/or questions about the content of the Investigation Report to the Investigator within ten (10) calendar days of

the date they are notified that the Investigation Report is available for review. The parties will also be able to submit a list of additional questions that they wish to be considered by the Investigator. The review of the Investigation Report will take place at a secure location and in a secure manner determined by the Title IX Officer. Each party's advisor will have access to review the Investigation Report at the same time and in the same manner as the parties, but the Conservatory reserves the right to create appropriate procedures to protect the privacy and sensitivity of the materials in question. Photographs or any other copies of the Investigation Report are not allowed by a party or their advisor. The secure location and manner of reviewing the Investigation Report can be modified if the Title IX Officer deems it necessary and appropriate.

The comments submitted by the Parties may not exceed ten (10) double spaced pages unless the Title IX Officer determines that a higher page limit is necessary and appropriate. This page limit does not include any submission of additional questions a party would like to be considered by the Investigator.

After reviewing the submissions, if any, from the Parties, the Investigator may determine that either additional investigation is required or no further investigation is needed. The Investigator has the sole discretion to determine if any information submitted by a party constitutes Impermissible Evidence and/or is irrelevant and therefore not to be considered and/or will be redacted, however, all questions a party requested the investigator to ask of the other party or witnesses must be appended to the report. If further investigation is conducted, the Investigator will include any additional relevant information in the Investigation Report.

- C. Submission to the Title IX Officer.** Once the investigation is concluded, the Investigator will provide the Title IX Officer the final Investigation Report, along with appendices including the statements of the parties and any questions the parties' requested be posed.

#### **IV. Determination of Responsibility**

- A. Investigator Written Determination.** After the Parties' opportunity to review the investigation report and any additional investigation following that review, the investigator will review all relevant evidence and reach a decision whether or not the Respondent is responsible based on the preponderance of the evidence for engaging in Prohibited Conduct under the Policy and/or for any other NEC potential policy violations that have been consolidated for review under this Formal Review Process pursuant to the Policy. The Investigator's written determination on responsibility, which will include the Investigator's rationale for each determination as to the alleged policy violations in question, will be provided to the Title IX Officer. The Title IX Officer will determine appropriate sanctions (if applicable) as set forth in Section IV(B) below.

**B. Determination of Sanctions.** If the final report includes a determination of a violation of the Policy or any other NEC policies, the Title IX Officer will assign an appropriate sanction and may consult with relevant administrators as follows:

Student Respondent: Title IX Officer will consult with the Dean of Students and Campus Life or their designee.

Staff Respondent: Title IX Officer will consult with the Vice President for Human Resources or their designee and the appropriate manager and/or member of the senior leadership team.

Faculty Respondent: Title IX Officer will consult with the Vice President for Human Resources or their designee and the Chief Academic Officer or their designee.

In each case, additional administrators may be consulted concerning appropriate sanctions if deemed necessary by NEC based on the facts and circumstances. The administrators reviewing appropriate sanctions may request from the Conservatory information on prior sanctioning decisions so that they can evaluate whether a consistent sanction is appropriate in the matter at hand.

**C. Written Notification of Investigation Outcome.** The Parties will typically be notified in writing of the decision and, if appropriate, the sanctions applied, within seven (7) business days of the Title IX Officer's receipt of the Investigator's written determination as to responsibility for the alleged policy violation as set forth in Section IV(A) of this Policy. The written notice of the determination shall be provided simultaneously to both parties, and will include the following: (i) the Investigator's determination as to whether the Respondent is responsible for a violation of the Policy and/or other NEC policies and relevant sanctions and the rationale for such determination; and (ii) the procedures for the Parties to appeal.

## **V. Appeals**

A party may appeal in accordance with the process identified in Section V of the [Policy Against Sex Discrimination](#).

## **VI. Additional Considerations**

The Additional Considerations section of the [Policy Against Sex Discrimination](#) is incorporated into this Formal Review Process in full. Please refer to the Policy Against Sex Discrimination for additional information.

## **VII. Definitions.**

The definitions in the [Policy Against Sex Discrimination](#) are incorporated into this Formal Review Process in full. Please refer to the Policy Against Sex Discrimination for definitions of relevant terms.

## **VIII. Informal Resolution.**

Any time after a report is made to the Title IX Officer, including before or after a formal complaint is submitted or after referral to this Formal Review Process, a party may request that the report be resolved through informal resolution rather than a Formal Review Process. Please refer to the [Policy Against Sex Discrimination](#) for additional information.

***Policy Last Updated July 31, 2024***