

Haskell

Indian Nations University

Student Sexual Misconduct Policy

Approved and Effective:

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I. PURPOSE

Haskell Indian Nations University (HINU) is committed to creating a safe, positive, and inclusive educational environment through academic programs, services, activities, policies, and procedures that are free from discrimination on the basis of sex.

HINU does not discriminate on the basis of sex and prohibits sex discrimination in its education or training programs or activities, including in recruitment and admission. HINU's Education and training programs and activities include, but are not limited to, formal academics, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and teacher training programs, ceremonial or similar education or training programs or activities conducted by the University.

HINU supports a campus environment that incorporates cultural practices of tribal communities. Therefore, HINU's Student Sexual Misconduct Policy ("Policy") intends, where appropriate, to respect ceremonial or similar education or training programs or activities conducted at Haskell, that are culturally relevant to Haskell students, including any class, program or activity that is fundamental to a tribe's culture, customs, traditions, heritage, or religion.

II. APPLICATION AND SCOPE

This Policy covers how HINU will respond to instances or allegations of student conducted discrimination on the basis of sex in its education and training programs. This Policy governs the conduct and rights of students (as defined in this policy) in instances or allegations of sex discrimination, including sexual harassment against another student. Wherever the term "student" is used herein, it also applies to applicants for admission, unless otherwise noted.

This Policy does not apply to allegations of discrimination involving federal employees, as defined under 5 U.S.C. § 2105. Allegations of harassing conduct made against or by DOI employees, as described under the Department's Personnel Bulletin (PB) 18-01, must be handled in accordance with the procedures required under PB 18-01 - including the procedures relevant to reporting, interim measures, complaint processing, and investigations – rather than the procedures described in this Policy. Accordingly, the procedures described under Sections V, VI, and VII of this Policy are inapplicable to DOI employees. Disciplinary actions taken against federal employees, as defined under 5 U.S.C. § 2105, must be taken in compliance with applicable laws and policies, including the Civil Service Reform Act of 1978, Adverse Action procedures under 5 U.S.C. Chapter 75, regulations at 5 C.F.R. pt. 752, and Departmental policy at 370 D.M. 752. Accordingly, the procedures described in this Policy, including the provisions described under Sections V, VI, and VII of this Policy, do not apply to federal employees, as defined under 5 U.S.C. § 2105. Nothing in this policy shall be construed to affect, replace, modify, or otherwise interfere with the rights of federal employees to engage in legally protected activities, including but not limited to,

participating in Equal Employment Opportunity (EEO) activities relevant to complaints of discrimination, including complaints of discrimination on the basis of sex such as sexual harassment, filing mixed case pleadings before the U.S. Merit Systems Protection Board (MSPB), or reporting discrimination to the Office of Inspector General (OIG) or the Office of Special Counsel (OSC).

This Policy applies to conduct that occurs on-campus or property in the possession of or owned, used, or controlled by the HINU, and off-campus conduct that occurs at locations, events, or circumstances over which HINU exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by HINU. The HINU Sexual Misconduct Response & Prevention Coordinator will determine whether a reported or alleged incident falls within this Policy. NOTE: The HINU Student Code of Conduct applies to off-campus prohibited conduct that does not occur at locations, events or circumstances over which HINU exercised substantial control over both the respondent and the context in which the harassment occurs, but does either (1) unreasonably interfere with the rights of other students or members of the HINU community, or (2) substantially disrupt the learning environment at Haskell.

Nothing in this Policy shall affect the right of an individual to file a complaint with external law enforcement agencies. A complaint may be filed concurrently with external law enforcement agencies and HINU without jeopardizing an individual's right to an investigation or other process under this Policy.

III. GUIDING PRINCIPLES

HINU, which is operated by the U.S. Department of the Interior, is a federally conducted education and training program. Although HINU, as a federally-operated program, is not covered under the U.S. Department of Education's ("ED") regulations implementing Title IX of the Education Amendments of 1972 (Title IX), HINU has drafted this policy to ensure that HINU students affected by instances or allegations of student conducted sex discrimination, including sexual harassment, are afforded the same principles of non-discrimination as those to students attending colleges and universities which are subject to ED's Title IX implementing regulations at 34 CFR Part 106, which took effect on August 14, 2020 ("2020 Title IX Regulation").¹ In its publication of the 2020 Title IX Regulation, ED "emphasize[d] that every person, regardless of demographic or personal characteristics or identity, is entitled to the same protections against sexual harassment under these [2020 Title IX Regulations], and that every individual should be treated with equal dignity and respect."²

IV. DEFINITIONS

- **Advisor of Choice:** The "Advisor of Choice" is an individual, who may be, but is not required to be, an attorney, and who agrees to provide the complainant or respondent support, guidance, or advice and is not a witness in the case. HINU will not limit the choice of advisor but may remove an advisor where there is a clear conflict of interest or where the advisor conducts themselves in an unprofessional manner. Should a student wish to be represented by an attorney, the student is responsible for obtaining and funding such an advisor.
- **Appeal Officer:** The "appeal officer" is the person or persons that will make the determination on

¹ On January 9, 2025, a federal district court (*Tennessee v. Cardona*, 2025 U.S. Dist. LEXIS 6197 (E.D. Ky., 2025)) issued a decision vacating the Final Rule entitled "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance", 89 Fed. Reg. 333474 (Apr. 29, 2024), and its corresponding regulations at 34 CFR Part 106. Consequently, the prior Title IX regulations that took effect on August 14, 2020 apply to this Policy (U.S. Dept. of Educ. Final Rule, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30,026, 30,178 (May 19, 2020)).

² 85 Fed. Reg. 30,026, 30,031 (May 19, 2020).

any appeal submitted under this Policy, including appeals of dismissals and determinations of responsibility. The appeal officer may be an employee or a contracted service provider. Any appointed appeal officer will not have a conflict of interest or bias against the parties, or against complainants or respondents generally, and will be trained on (1) the definition of sex discrimination, including sexual harassment under this policy, (2) the scope of HINU's education program or activity, (3) how to conduct an investigation and grievance process, including appeals, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. The appeal officer may not be the same person as the decision-maker that reached the determination regarding responsibility or dismissal, the investigator(s), or the Sexual Misconduct Response & Prevention Coordinator.

- **Business Day:** means Monday through Friday (8:00am-4:00pm), excluding holidays and other official University closures.
- **Complaint:** means an oral or written request to HINU that objectively can be understood as a request for HINU to investigate and make a determination about alleged discrimination under this Policy, including a document signed by the Sexual Misconduct Response & Prevention Coordinator alleging sexual harassment against a respondent and requesting HINU to investigate the allegation.
- **Complainant:** The “complainant” is:
 - (1) A HINU student who is alleged to have been subjected to conduct that could constitute sex discrimination; or
 - (2) A person other than an HINU student who is alleged to have been subjected to conduct that could constitute sex discrimination by a student and who was participating or attempting to participate in a HINU education program or activity at the time of the alleged sex discrimination. This category does not include federal employees, as defined under 5 U.S.C. § 2105.
- **Consent:** “Consent” is obtained only from an individual who is of consensual age under Kansas state law and is fully cognitive of giving the statement of “I consent”, “I give permission”, or able to confirm or reply to a question with a firm “yes”, and/or agree to an agreement without being coerced, intimidated, provoked by fear, or under the influences of drugs or alcohol. Silence or absence of resistance on the part of an individual does not constitute their consent. Consent cannot be given by a third party. Individuals may withdraw consent at any time.
- **Non-Consent:** Individuals who are unable to cognitively give consent to an agreement (e.g. sexual relations) due to physical or mental incapacity, including being under the influence of drugs or alcohol.
- **Hearing Officer:** The “hearing officer” is the person or persons that will make the determination of responsibility at the conclusion of a formal resolution under this Policy. More than one hearing officer may be appointed to serve together on a panel, therefore, for purposes of this Policy, any reference to the hearing officer should be read as “hearing officer or hearing officers.” A hearing officer may be an employee or contracted service provider. Any hearing officer will not have a conflict of interest or bias for or against the parties, or against complainants or respondents generally, and will be trained on (1) the definition of sex discrimination, including sexual harassment under this policy, (2) the scope of HINU's education program or activity, (3) how to conduct an investigation and grievance process, including hearings, and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Hearing officer specific training must also include training on (1) any technology to be used at a live hearing and on (2) issues of relevance of questions and evidence, including when questions

and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. The same individual may not serve as the Hearing Officer and the Investigator or Sexual Misconduct Response & Prevention Coordinator.

- **Incapacitation**: is the state of being unable to have the necessary ability, qualification, strength to perform a specific act or function. This can be temporary or permanent, and can be caused by a number of factors, including medical impairment, alcohol or drug use, sleep, unconsciousness, intermittent consciousness, unresponsiveness, or any other state where a reasonable person under a similar circumstance would know that the individual is unable to give consent.
- **Investigator**: The "investigator" is the person or persons assigned to investigate a complaint. The Investigator may be an employee or a contracted service provider. The Investigator will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and will be trained on (1) the definition of sexual harassment under this Policy, (2) the scope of HINU's education program or activity, (3) how to conduct an investigation and grievance process, including investigations, and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Investigator specific training must also include training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
- **Respondent**: The "respondent" is the student who is alleged to have violated HINU's prohibition on sex discrimination, including sexual harassment. A respondent is presumed not responsible for alleged conduct until a determination of discrimination is made under this Policy. HINU is not considered a respondent as it relates to the respondent's rights in this Policy. This term does not include federal employees, as defined under 5 U.S.C. § 2105.
- **Retaliation**: "Retaliation" means intimidation, threats, coercion, or discrimination against any person by a student authorized by HINU to provide aid, benefit, or service under HINU's education program or activity, for the purpose of interfering with any right or privilege under this Policy. This may include retaliation against a person for reporting information, making a complaint, testifying, or participating in or refusing to participate in any manner in an investigation, proceeding, or hearing under this Policy, including in an informal resolution process, in HINU's resolution procedures, and in any other actions taken by HINU to promptly and effectively end sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects when notified of conduct that reasonably may constitute sex discrimination under this Policy.
- **Student**: The "student" is an enrolled student at HINU (as defined in the Haskell Community Standards: The Student Code), or an applicant for admission to HINU (unless otherwise noted).
- **HINU Sexual Misconduct Response & Prevention Coordinator**: The "HINU Sexual Misconduct Response & Prevention Coordinator" is to develop, implement, coordinate, and conduct programs, trainings, and initiatives designed to educate and support parents and students regarding protections afforded under this policy. The HINU Sexual Misconduct Response & Prevention Coordinator may also serve as the Investigator. The Sexual Misconduct Response & Prevention Coordinator will not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent, and will be trained on (1) the definition of sex discrimination, including sexual harassment under this Policy, (2) the scope of HINU's education program or activity, (3) how to conduct an investigation and grievance process, including investigations, and (4) how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

- **Witness:** is an individual who has direct knowledge of an incident or alleged conduct, or is an expert witness in an area relevant to an allegation. Character witnesses are not part of the HINU investigation and resolution processes.

Prohibited Conduct and Related Definitions

Sex Discrimination, including sexual harassment, as defined below, are prohibited conduct under this Policy.

- **Sex Discrimination:** “Sex Discrimination” means discrimination on the basis of sex that denies or limits a person’s equal access to a HINU educational program or activity. This includes admitting or promoting (or refusing to admit or promote) a participant or prospective participant on the basis of sex or imposing explicitly or implicitly stricter admission or completion requirements for one sex as compared to the other. This also includes facially neutral policies, procedures, or methods of administration which have a disproportionate and adverse effect on participants or applicants unless there is an educational or business necessity and there are no equally effective alternatives.
- **Sexual Harassment:** Anyone may experience sexual harassment, regardless of gender identity or sexual orientation.³ Sexual harassment is a form of sex discrimination and means conduct on the basis of sex that is one or more of the following:
 - (1) **Quid pro quo harassment.** A student who is authorized by HINU to provide an aid, benefit, or service under HINU’s education program or activity conditioning the provision of such an aid, benefit, or service on a person’s participation in unwelcome sexual conduct or uses submission to or rejection of such conduct as the basis for any decision affecting an individual. This type of sexual harassment is prohibited whether an individual resists and suffers the threatened harm or submits and thus avoids the threatened harm.
 - (2) **Hostile environment harassment.** Conduct on the basis of sex that is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to HINU’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - The degree to which the conduct affected the complainant’s ability to access the HINU’s education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties’ ages, roles within HINU’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sexual harassment in HINU’s education program or activity.
 - (3) **Specific Sexual Misconduct Offenses.**
 - **Sexual assault** meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. These include, but are not limited to:

Rape—(Except Statutory Rape): The carnal knowledge of a person, without the

³ See U.S. Dept. of Educ. Final Rule, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 30,026, 30,178 (May 19, 2020).

consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sodomy—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault With An Object—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Fondling—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law

Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

- **Dating violence** meaning violence committed by a person:
 - (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship;
 - The type of relationship; and
 - The frequency of interaction between the persons involved in the relationship;
- **Domestic violence** meaning felony or misdemeanor crimes committed by a person who:
 - (1) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
 - (2) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
 - (3) Shares a child in common with the victim; or
 - (4) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction;
- **Exposing another to a life-threatening communicable disease** meaning to engage in sexual intercourse or sodomy with another individual with the intent to expose that individual to a life threatening communicable disease; sell or donate one's own blood,

blood products, semen, tissue, organs or other body fluids with the intent to expose the recipient to a life threatening communicable disease; or share with another individual a hypodermic needle, syringe, or both, for the introduction of drugs or any other substance into, or for the withdrawal of blood or body fluids

- **Human Trafficking** meaning the act/course to conduct commercial sexual exploitation or relations with a child or an adult powered by a vehicle, flying, expendable, or recoverable carry a lethal or nonlethal payload.
- **Indecent Liberties** meaning any lewd (e.g. offensive) engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others; or exposing a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another.
- **Psychological/Emotional Violence** meaning regular and deliberate use of words and non-physical actions used with the purpose to manipulate, hurt, weaken or frighten, distort, confuse or influence a person's thoughts and actions within their everyday lives, changing their sense of self and inadvertently causing harm (e.g. spiritually, mentally, emotionally, and physically).
- **Sexual Exploitation** meaning when one person takes non-consensual or abusive sexual advantage of another person for the person's advantage or benefit, or to benefit anyone other than the one being exploited. Examples may include acts such as recording, photographing, streaming, or otherwise transmitting, viewing, or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved; voyeurism (i.e., spying on others who are in intimate or sexual situations), prostituting another person, knowingly transmitting a sexually transmitted infection to another, or facilitating the sexual harm of another person.
- **Stalking** meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - (1) Fear for the person's safety or the safety of others;
 - (2) Suffer substantial emotional distress including, but not limited to repeated and unwanted physical or virtual presence, attention, harassment, or unwanted contact from of a specific individual
- **Threats** meaning communication that involves the intent to cause physical, emotional, spiritual, mental harm, death, a disability, injury, exploit or ruin the reputation of an individual through the use of words, gestures, or weapons. Threats are also words or actions that would compel, or coerce a reasonable person to engage in unwanted activities including sex. Not limited to the intent to place another in fear, cause evacuation, lock down, disruption in regular ongoing activity, place of assembly, transportation, or recklessly disregard of causing fear of a potential evacuation. (e.g. expose to contagious or infectious disease).

V. REPORTING INCIDENTS OF SEX DISCRIMINATION, INCLUDING SEXUAL HARASSMENT

If you believe you have been subjected to, witnessed, or have otherwise learned of sexual harassment or other sex discrimination under this Policy you can make a report online, in person, by mail, email, or phone to:

HINU Sexual Misconduct Response & Prevention Coordinator

Attn: Sexual Misconduct Response & Prevention
Coordinator

Kylee Fiedler Office: Tommaney Library Room 120

Mobile: 785-813-8808

Mail: 155 Indian Avenue Lawrence, KS. 66046

Email: kfiedler@haskell.edu

Campusadvocate@haskell.edu

Website: <https://haskell.edu/presidents-office/hinu-student-sexual-misconduct-policy-2/>

You may also make a report by email to:

U.S. Department of the Interior, Office of Civil Rights

Director of the Public Civil Rights Division

Office of Civil Rights

U.S. Department of the Interior Washington, DC 20240

Email: DOICivilRights@ios.doi.gov

Website: <https://www.doi.gov/pmb/eeo/public-civil-rights-division>

Please note that existing laws and policies override this Policy with regard to federal employee reports of discrimination, including sexual harassment. Federal employees have the right to obtain confidential counseling and file complaints of discrimination through the EEO process. Haskell federal employees can contact an EEO counselor privately and confidentially by phone at (202) 208-5690 and by e-mail at bia_bie_eeo@bia.gov. Under Departmental Policy, a Bureau office processing complaints under Executive Order 13160 must forward any complaint filed by a federal employee to the Office of Civil Rights (OCR) within five (5) days of receipt of the complaint. Accordingly, the HINU Sexual Misconduct Response & Prevention Coordinator is responsible for ensuring that all complaints submitted by federal employees, as defined under 5 U.S.C. § 2105, alleging discrimination, including allegations of sex discrimination and sexual harassment, are forwarded to OCR. Nothing in this policy shall be construed to affect, replace, modify, or otherwise interfere with the rights of federal employees to engage in legally protected activities, including but not limited to, participating in Equal Employment Opportunity (EEO) activities relevant to complaints of discrimination, including complaints of discrimination on the basis of sex such as sexual harassment, filing mixed case pleadings before the U.S. Merit Systems Protection Board (MSPB), or reporting discrimination to the Office of Inspector General (OIG) or the Office of Special Counsel (OSC).

Allegations of harassing conduct made against or by DOI employees, as described under the Department's Personnel Bulletin (PB) 18-01, must be handled in accordance with the procedures required under PB 18-01 rather than the procedures described in this Policy. Accordingly, the HINU Sexual Misconduct Response & Prevention Coordinator is responsible for ensuring that allegations of harassing conduct made against or by DOI employees are referred to appropriate responsible officials in accordance with the requirements of PB 18-01 and are handled in accordance with the procedures required under PB 18-01 rather than the procedures described in this Policy.

HINU encourages all reports of sex discrimination regardless of the date of the incident occurring. However, HINU will not consider any complaint filed more than two years after the incident. Students reporting an incident that occurred greater than two years from the date of reporting may still receive supportive measures.

Any individual with information regarding a sex-based crime is encouraged to contact local law enforcement to report the crime. Nothing in this Policy shall affect the right of an individual to file a complaint with external law enforcement agencies. A complaint may be filed concurrently with external law enforcement agencies and HINU without jeopardizing an individual's right to an investigation or other process under this Policy.

HINU will process all reports filed under this Policy according to the process prescribed by this Policy irrespective of whether a concurrent report has been filed with law enforcement.

Reports under this Policy may be made by the person who experienced the harm or by a third party, including, but not limited to, community members, a friend, family member, advisor, staff member, or professor.

Individuals will be treated with courtesy, compassion, respect, and should suffer the minimum inconvenience when there is involvement with any investigation.

HINU encourages all students affected by sex discrimination to seek assistance. Seeking assistance promptly may be important to ensure a student's physical safety or to obtain medical care, emotional support, or other support. It may also be necessary to preserve evidence, which can assist HINU and/or law enforcement in responding effectively.

A. Reporting Options and Resources

HINU encourages all individuals to promptly report instances of sex discrimination covered by this Policy, including sexual harassment to the HINU Sexual Misconduct Response & Prevention Coordinator and/or to the U.S. Department of the Interior Office of Civil Rights, and to law enforcement. HINU also recognizes that deciding to report can be difficult and is an intensely personal decision. Individuals are encouraged to seek assistance from campus and community resources and to explore all potential reporting and support options.

An individual has the right to report, or decline to report, potential criminal conduct to law enforcement. Under limited circumstances, posing an imminent threat to health or safety of any individual, or to comply with applicable law such as when there is reasonable cause to suspect the maltreatment, neglect or abuse of a minor, HINU may independently notify law enforcement.

Anyone can make a report as follows:

1. Reporting to Campus Safety and Local Law Enforcement

Any individual with information regarding potential criminal conduct is encouraged to contact law enforcement as soon as possible.

If individuals have been violated or harmed in any way, they are encouraged to seek medical treatment following an incident, especially if the incident poses a threat to an individual's safety or physical, spiritual, emotional, or mental well-being. Individuals also have the right to decline to notify law enforcement authorities.

In immediate Harm or Danger	
Call 911	

The Haskell Campus Safety Department provides 24-hour safety, security, and emergency response services. Security officers can provide safety escorts upon request to locations on campus by calling the cell number listed below.

On Campus	
24/7 Haskell Campus Security	Director of Security 2440 West Perimeter Road (785) 760-6192 Hours: 24/7

Local Law Enforcement	
Lawrence Police Department	4820 Bob Billings Pkwy, Lawrence, KS 66047 (785) 843-0250 Website: lawrenceks.org Chief of police and organizational chart visit: https://lawrenceks.org/police/org-chart/ LGBTQ+2 Liaison visit: https://lawrenceks.org/police/ Protection-Abuse https://assets.lawrenceks.org/police/forms/protection-abuse.pdf Protection-Stalking/Assault: https://assets.lawrenceks.org/police/forms/protection-stalking-assault.pdf
Douglas County Sheriff	Judicial and Law Enforcement Center - Operations Division 111 East 11th Street Lawrence, Kansas 66044 Tel: (785) 841-0007 Fax: (785) 841-5168 Website: https://dgso.org/

	LGBTQ+2 Liaison: https://dgso.org/index.php/dgso-lgbtq-liaison/ Tip Line: https://dgso.org/index.php/nexus-unit-about-anonymous-tip-form/
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The HINU Sexual Misconduct Response & Prevention Coordinator is also available to assist individuals with contacting law enforcement.

HINU honors all orders of protection issued by tribal or state courts of law, including emergency, temporary, and final orders of protection. Individuals who have obtained an order of protection should provide a copy to the HINU Sexual Misconduct Response & Prevention Coordinator to ensure a proper safety plan is set in place with Haskell Security.

HINU will provide supportive measures for students with an order of protection. Supportive measures may include, but are not limited to escorts, special parking arrangements, changing classrooms, dorms and/or allowing a student to complete assignments from home, etc.

For a complete list of resources both on and off campus, see Appendix A.

2. Reporting to HINU Sexual Misconduct Response & Prevention Coordinator

Regardless of whether an individual chooses to contact law enforcement, an individual has a right to report allegations of prohibited conduct under this Policy with HINU. Reports under this Policy may be made by the person who experienced the harm or by a third party, including, but not limited to, community members, a friend, family member, advisor, staff member, or faculty.

Reports can be made online, in person, by mail, email, or phone to:

HINU Sexual Misconduct Response & Prevention Coordinator
<p>Ms. Kylee Fiedler Office: Tommaney Library Room 120 Mobile: 785-813-8808 Mail: 155 Indian Avenue Lawrence, KS. 66046 Email: campusadvocate@haskell.edu</p>

All HINU staff, except those identified as confidential under section V.A.3 of this Policy, are required to report alleged violations of this Policy to the HINU Sexual Misconduct Response & Prevention Coordinator. If a person does not wish to report directly to the HINU Sexual Misconduct Response & Prevention Coordinator, they may contact a HINU official of their choice including, but not limited to:

- **Office of Student Rights and Conduct:** Danelle Mc Kinney 785-813-5801
- **Dean of Students/Dean of Students Office:** 785-749-8671
- **Human Resources:** Amy Haury 505-250-6782
- **Director of Housing:** 785-830-2703

a) Anonymous Reporting

An individual can share a concern anonymously with the HINU Sexual Misconduct Response & Prevention Coordinator through the online reporting form. Please note that while the HINU Sexual Misconduct Response & Prevention Coordinator will review all concerns reported through the online reporting form, those submitted without sufficient information may inhibit the HINU's ability to respond or take supportive actions.

https://forms.office.com/Pages/ResponsePage.aspx?id=WmbPisNmeUyeI9tOx_SR3G_yfJu1pUBJsfRHL6Hh1ftUQUJLNzg4ODBaM1A0U1JHMDhCRFdBT0QzWi4u

b) Use of Alcohol and Other Drugs

The University recognizes that individuals with information about sex discrimination, including sexual harassment may hesitate to come forward out of fear that their actions may violate HINU's policies related to the use of alcohol and other drugs. While HINU does not condone violations of its policies, it considers reporting incidents of sex discrimination, including sexual harassment for the safety of all.

HINU will not pursue conduct actions against complainants, respondents or witnesses for disclosure of such disclosure is made in connection with a good faith report or investigation of sexual misconduct. In the event a student expresses having issues with drugs or alcohol, the HINU Sexual Misconduct Response & Prevention Coordinator will refer the student for further assistance (e.g. Diversion Program).

Amnesty for other alleged Student Code violation in connection with a good faith report or investigation of sexual harassment under this Policy will be made on a case-by-case basis, considering factors such as egregiousness and risk of harm.

3. Confidential Support

An individual who is not prepared to make a report, or who may be unsure how to label what happened but still seeks information and support, may contact a HINU confidential employee, who will not notify the HINU Sexual Misconduct Response & Prevention Coordinator about reported conduct that may constitute sex discrimination. Certain HINU staff are designated confidential employees under this Policy and available to speak to any person who wishes to report an incident and remain anonymous. Counseling Services can offer confidential assistance, including (1) explaining reporting options including how to contact the HINU Sexual Misconduct Response & Prevention Coordinator and how to make a complaint of sex discrimination under this Policy; (2) providing assistance, upon request of the individual, in seeking medical care or filing a report with law enforcement; (3) explaining that the HINU Sexual Misconduct Response & Prevention Coordinator may be able to offer and coordinate supportive measures; and (4) providing contact information for any agency the individual affected by sex discrimination wishes to have involved. Designated confidential employees will continue to follow up with care and support to the extent requested and needed by the individual affected by sex discrimination.

4. Reporting to the U.S. Department of the Interior, Office of Civil Rights

An individual may choose to submit a complaint to the U.S. Department of the Interior, Office of Civil Rights, irrespective of whether a report is made with law enforcement and/or the HINU Sexual Misconduct Response & Prevention Coordinator. Complaints made to the Office of Civil Rights must be filed within 180 days of the alleged discrimination, unless the time limit is extended by the Office.

U.S. Department of the Interior, Office of Civil Rights

Director of the Public Civil Rights Division
Office of Civil Rights
U.S. Department of the Interior
Washington, DC 20240
Email: DOICivilRights@ios.doi.gov
Website: <https://www.doi.gov/pmb/eeo/public-civil-rights-division>

VI. HINU RESPONSE TO A REPORT OF SEX DISCRIMINATION, INCLUDING SEXUAL HARASSMENT

Upon receiving an online, in person, mail, email, or phone report alleging sex discrimination, including sexual harassment, the HINU Sexual Misconduct Response & Prevention Coordinator will promptly contact the affected party to discuss safety and supportive measures, explain their right to file complaint to local law enforcement, and provide the affected party with a copy of their rights (Appendix B).

Upon receipt of a report of conduct that reasonably may constitute sex discrimination under this Policy, the HINU Sexual Misconduct Response & Prevention Coordinator will take actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effect. If a report is submitted to the HINU Sexual Misconduct Response & Prevention Coordinator that does not identify or describe prohibited conduct, the HINU Sexual Misconduct Response & Prevention Coordinator will inform the reporting party that the matter is not within the jurisdiction of this Policy and will forward the matter to the appropriate HINU department or Bureau of Indian Education contact, if needed.

A. Supportive Measures

The HINU Sexual Misconduct Response & Prevention Coordinator will offer to all participants and coordinate non-disciplinary, non-punitive individualized supportive measures as appropriate, as reasonably available, and without fee or charge to the complainant or respondent, which are designed to restore or preserve equal access to HINU's education program and activities without unreasonably burdening the other party, including measures designed to protect the safety of the parties or the HINU campus, or deter sexual harassment. HINU will offer supportive measures upon receipt of a report alleging prohibited conduct under this Policy, whether the resolution processes are utilized or not.

Supportive measures may be modified or terminated as needed. HINU will provide all affected parties with a timely opportunity to seek modification or reversal of HINU's decision to provide, deny,

modify, or terminate supportive measures applicable to them and affected parties may also seek additional modification or termination of supportive measures if circumstances change materially.

Supportive measures may include, but are not limited to:

- Referrals to receive on or off campus counseling services,
- Extensions of deadlines, rescheduling of exams, and other course-related adjustments, as agreed upon by faculty and student,
- Change in class schedule, including transferring course sections or course withdrawal,
- Change in work schedule or job assignment (e.g. work study),
- On-campus escort services,
- Changes to academic, housing, dining, extracurricular or any other activity, and transportation when applicable, regardless of whether there is or is not a comparable alternative,
- Increased security and monitoring of certain areas of the HINU campus,
- Extended absence or granted an Incomplete for the semester, as agreed upon by faculty and student,
- Imposition of a “no contact order” and/or honoring a court-issued order of protection, and
- Transportation for non-life-threatening medical care.

HINU will maintain as confidential any supportive measures provided to the affected parties, to the extent that maintaining such confidentiality would not impair the ability of HINU to provide the supportive measures. HINU will not be responsible for expenses associated with medical care.

B. Emergency Removals

HINU may, in circumstances where it determines, based on an individualized safety and risk analysis, that an imminent and serious threat to the health or safety of a complainant or any students or other persons arising from the allegations of sex discrimination justifies removal, impose an emergency suspension, an emergency removal from housing, a temporary “loss of recognition” as defined the *Haskell Community Standards: The Student Code*, and/or other necessary restrictions prior to a final determination.

Emergency removals are not a sanction. Instead, an emergency removal is taken to protect the safety and well-being of individuals. These removals are preliminary in nature and are in effect only until there is a resolution of the student conduct matter.

HINU will provide written Notice of an Emergency Removal to a respondent, which will include the right to request a hearing to be held within five business days from the date the action was imposed. The request for a hearing must be in writing and submitted within two business days of being notified of the emergency removal. The emergency removal is in effect pending the outcome of a hearing on the removal.

This subsection does not apply to federal employees, as defined under 5 U.S.C. § 2105. The term “removal,” as used in this subsection, does not contain the same meaning as the term “removal” under federal employment law, as defined at 5 U.S.C. § 7512(1) and related law. Allegations of harassing conduct against or by DOI employees must be handled in accordance with PB 18-01. Under PB 18-01, “interim measures” may be taken pursuant to Section 7(B)(3) to ensure that harassing conduct does not continue. Any “removal” of a federal employee, as that term is defined under 5 U.S.C. § 7512(1) and related law, must comply with applicable laws and policies, including cause and procedure under 5 U.S.C. § 7513.

VII. GRIEVANCE PROCEDURES FOR PROMPT AND EQUITABLE RESOLUTION OF COMPLAINTS OF SEX DISCRIMINATION, INCLUDING SEXUAL HARASSMENT

A. Complaints

Any complaint may be made orally or in writing and with or without a signature. A communication constitutes a complaint when it objectively can be understood as a request to investigate and make a determination by a reasonable person. This is a fact-specific determination.

1. Complaints – Sexual Harassment

The following people have the right to make a complaint of sexual harassment, requesting that HINU investigate and make a determination about alleged sexual harassment:

- A “complainant”, as defined in the definition section of this Policy
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- HINU’s Sexual Misconduct Response & Prevention Coordinator.

Note that a person is entitled to make a complaint of sexual harassment only if they themselves are alleged to have been subjected to the sexual harassment, if they have a legal right to act on behalf of such person, or if the HINU Sexual Misconduct Response & Prevention Coordinator initiates a complaint.

2. Complaints – Sex Discrimination (except for Sexual Harassment)

With respect to complaints of sex discrimination other than those alleging sexual harassment, the following persons have a right to make a complaint:

- A “complainant”, as defined in the definition section of this Policy
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- HINU Sexual Misconduct Response & Prevention Coordinator; or
- Any student.

HINU may consolidate complaints of sex discrimination, including complaints of sexual harassment 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 discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

HINU encourages all reports of sex discrimination regardless of the date of the incident occurring. However, HINU will not consider any complaint filed more than two years after the incident. Students reporting an incident that occurred greater than two years from the date of reporting may still receive supportive measures. With respect to a complaint brought by a former student who was participating or attempting to participate in HINU’s education program or activity at the time of the alleged sex discrimination, HINU will proceed just as it would with all other complaints. If, at the time the complaint is filed, however, the respondent is no longer participating in HINU’s education program or activity, the complaint will be dismissed.

3. University-Initiated Complaint

In limited cases, the HINU Sexual Misconduct Response & Prevention Coordinator may initiate a complaint without a request by the complainant. The HINU Sexual Misconduct Response & Prevention Coordinator has the discretion to initiate a complaint when the Advocate determines that the reported conduct presents an imminent and serious threat to the health or safety of the complainant or other person, or prevents HINU from ensuring equal access on the basis of sex.

If the complainant requests that their identity or other information be kept private or that no formal action be pursued against an alleged offender, there may be instances in which such requests cannot be honored, as they would impair or eliminate the safety of the complainant themselves or others.

Factors considered by the Sexual Misconduct Response & Prevention Coordinator in a decision to initiate a formal complaint include, but are not limited to:

- The involvement of multiple alleged complaints,
- Allegations of threats or retaliation by the respondent against the complainant or others,
- Complainant request not to proceed,
- Complainant's reasonable safety concerns regarding initiation of a complaint,
- The risk that additional acts of sex discrimination would occur if complaint not initiated,
- The severity of the alleged sex discrimination, including whether, if established, would require removal of respondent,
- The age and relationship of parties,
- Scope of alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals
- Availability of evidence to assist a Hearing Officer in determining whether sex discrimination occurred, and
- Whether Haskell could end alleged sex discrimination and prevent recurrence without initiating the grievance procedure.

B. Principles Governing HINU's Grievance Procedures:

HINU will treat complainants and respondents equitably.

HINU requires that any HINU Sexual Misconduct Response & Prevention Coordinator, Investigator, Hearing Office, or any person designated by HINU to facilitate an informal resolution process not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. HINU will ensure that the HINU Sexual Misconduct Response & Prevention Coordinator, Investigator, Hearing Officer, or any person designated by HINU to facilitate an informal resolution process receive training on (1) the definition of sex discrimination, including sexual harassment under this Policy, (2) the scope of HINU's education program or activity, (3) how to conduct an investigation and grievance process including hearings, appeals, as applicable, and (4) how to serve impartially including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

HINU presumes that the respondent is not responsible for the alleged sex discrimination until a determination regarding responsibility is made at the conclusion of the grievance process.

HINU will take reasonable steps to protect the privacy of the parties and witnesses during its grievance

procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

HINU will objectively evaluate all evidence that is relevant and 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 following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by HINU to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal 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;
- A party's or witness's records that are 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 HINU obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sexual harassment. 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-based harassment or preclude determination that sexual harassment occurred.

C. Written Notice to Parties upon Receipt of a Complaint

Within 72 hours of the Sexual Misconduct Response & Prevention Coordinator's receipt of a formal complaint, HINU will notify the parties in writing of the following:

- HINU's grievance procedures and alternative dispute resolution process;
- Notice of timelines for major stages of the grievance procedures along with the HINU process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons of the action;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sexual harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sexual harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Hearing Officer;
- The parties may have an Advisor of Choice who may be, but is not required to be, an attorney (HINU is not responsible for any cost associated with an attorney or other paid advocate);

- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence; and
- That knowingly making false statements or knowingly submitting false information during the grievance procedures is prohibited under the *Haskell Community Standards: The Student Code*.

If, in the course of an investigation, HINU decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

If HINU has reasonable concerns for the safety of any person as a result of providing this notice, HINU may reasonably delay providing written notice of the allegations in order to address the safety concern appropriately. The reasonable concerns will be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

D. Dismissal of a Complaint

Within five business days of receipt of a formal complaint, the HINU Sexual Misconduct Response & Prevention Coordinator will make an initial assessment to determine whether to investigate or dismiss a complaint of sex discrimination, including sexual harassment.

HINU may dismiss a complaint if:

- HINU is unable to identify the respondent after taking reasonable steps to do so;
- The subject of the complaint does not meet this policy's definition of "respondent" or the conduct did not occur on-campus, on property in the possession of or owned, used or controlled by HINU, at an off-campus location at locations, events, or circumstances over which HINU exercised substantial control over both the respondent and the context in which the sexual harassment occurs;
- HINU obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the HINU Sexual Misconduct Response & Prevention Coordinator declines to initiate a complaint, and HINU determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under this Policy even if proven; or
- HINU determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under this Policy. Before dismissing the complaint, HINU will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, HINU will promptly notify the parties simultaneously in writing of the basis for the dismissal.

HINU will notify the complainant that a dismissal may be appealed on the bases outlined in the Appeals section of this Policy. If a dismissal is appealed, HINU will follow the procedures outlined in the Appeals section.

When a complaint is dismissed, HINU will, at a minimum:

- Offer supportive measures to the complainant and respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the HINU Sexual Misconduct Response & Prevention Coordinator to ensure that sex discrimination does not continue or recur within HINU's education program or activity.

E. Investigations

1. Assignment to an Investigator

The HINU Sexual Misconduct Response & Prevention Coordinator may serve as the Investigator upon receipt of a complaint alleging sex discrimination or assign one or more Investigators to the case as they deem appropriate. Each party will be given an opportunity to request the removal and replacement of an Investigator based on bias or conflict of interest. Any request for a change in an Investigator must be accompanied by supporting information and given to HINU Sexual Misconduct Response & Prevention Coordinator in writing. If the Investigator is the HINU Sexual Misconduct Response & Prevention Coordinator, the request for a change in Investigator may be sent to the Office of the President (presidentoffice@haskell.edu).

2. Investigations

HINU will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on HINU -- not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The Investigator will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate. Either party may request that the parties not be in the same room for any meetings or proceedings which both may attend. HINU will determine the appropriate use of technology to satisfy the request.

It is understood that there may be circumstances in which a complainant or respondent wishes to limit their participation. The complainant and respondent retain this right and will not be subject to adverse HINU actions, although HINU may be obligated to conduct an investigation. If a party chooses not to participate in an investigation for any reason, the HINU's process will continue with respect to the alleged conduct.

HINU will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by their Advisor of Choice, who may be, but is not required to be, an attorney.

- HINU will not limit the choice or presence of the Advisor of Choice for the complainant or respondent in any meeting or proceeding.
- HINU may establish restrictions regarding the extent to which the Advisor of Choice may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

HINU will provide the parties with the same opportunities, if any, to have people other than the parties' Advisor of Choice present during any meeting or proceeding.

When investigating complaints of sexual harassment, the Investigator will

- Allow for the reasonable extension of timeframes on a case-by case basis for good cause with written notice to the parties that includes the reason for delay;
- HINU will provide an equal opportunity for the parties to present fact and expert witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible;

- Have discretion to determine whether the parties may present expert witnesses as long as the determination applies equally to the parties;
- Provide the parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the complaint, including evidence upon which HINU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;
- Prior to completion of the investigative report, send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have at least 10 business days to submit a written response, which the Investigator will consider prior to completion of the investigative report;
- Create an investigative report that fairly summarizes relevant evidence and, at least 10 business days prior to a Hearing or alternative dispute resolution (ADR) conference, or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response;
- Make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination;
- Take reasonable steps to prevent and address the parties' and their Advisor of Choice's unauthorized disclosure of information and evidence; and
- Not restrict either party from discussing allegations under investigation or from gathering and presenting relevant evidence during the interview process.

F. Resolution Process

1. Informal Resolution: Alternative Dispute Resolution

In lieu of resolving a complaint through HINU's grievance procedures, the parties may instead elect to participate in an ADR process. HINU will inform the parties in writing of the ADR process. The written notification will include:

- The allegations;
- The requirements of ADR;
- That any party has the right to withdraw from the ADR process and initiate or resume a Formal Resolution Process at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the ADR process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an ADR agreement, including notice that an ADR resolution agreement is binding only on the parties; and
- What information HINU will maintain and whether and how HINU could disclose such information for use in its grievance procedures if such procedures are initiated or resumed.

The ADR process is where the parties and HINU mutually agree to forgo a Formal Resolution Process and engage in an ADR. When appropriate, HINU will attempt to utilize ADR processes, which may allow resolution of the alleged violation without recourse to punitive action. Such resolutions may include a mutual agreement on responsibility and sanctions, mediation, or other conflict resolution methods offered by HINU.

The HINU Sexual Misconduct Response & Prevention Coordinator will determine, based on the totality of the circumstances, whether an alternative dispute resolution process is appropriate given the facts and

participants. The HINU Sexual Misconduct Response & Prevention Coordinator will also determine what type of processes will be utilized which may include mediation and/or conciliation incorporating customs and practices of the individuals' tribal affiliation(s).

ADR is strictly voluntary. No party will be compelled to participate, and the HINU Sexual Misconduct Response & Prevention Coordinator will obtain voluntary written consent from all parties prior to proceeding.

The HINU Sexual Misconduct Response & Prevention Coordinator will assign a person as the facilitator who would not be the Investigator or Hearing Officer in the assigned case. The facilitator of any ADR process will be properly trained per federal law and for the ADR process utilized.

At the conclusion of the ADR process, the parties will agree in writing to the terms of the resolution. The terms will include any sanction or remedies identified by HINU and agreed to by the parties, including permanent supportive measures.

ADR may be offered based on an investigative report or at any time after the filing of a complaint, prior to the determination of responsibility. Any party may withdraw from the ADR process prior to agreeing to the resolution, and the case will resume the formal resolution process. Once the parties agree to the ADR resolution agreement, the resolution is final and cannot be appealed.

Information shared as part of the ADR process will not be considered as evidence if a party withdraws from the process and the formal resolution process restarts.

2. Formal Resolution Process

The HINU Sexual Misconduct Response & Prevention Coordinator will assign one or more hearing officers to the complaint. A party will be given an opportunity to request the removal and replacement of a hearing officer based on bias or conflict of interest, which will be reviewed by the Office of the President. Any request for a change of hearing officer must be accompanied by supporting information.

The hearing officer is responsible for maintaining an orderly, fair, impartial, and respectful process. The Hearing Officer will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

- HINU's grievance process will provide for a live hearing, which may be conducted with all parties physically present in the same geographic location or, at HINU's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.
 - HINU will create an audio or audiovisual recording or transcript of any live hearing and make it available to the parties for inspection and review.
- A complainant, respondent, or witness may decline to participate in the resolution process. The hearing officer will not draw any adverse inference from a party's silence or stated desire not to participate. All conferences and hearings are closed to the public, and only the Advisor of Choice may accompany their respective parties.
- At any point a respondent may accept responsibility for some or all the allegations against them. A respondent wishing to accept responsibility should communicate in writing to the HINU Sexual Misconduct Response & Prevention Coordinator. The HINU Sexual Misconduct Response & Prevention Coordinator will inform all parties of the acceptance of responsibility and will issue a proposed set of sanctions and/or remedies. If all parties agree in writing and accept the proposed

sanctions and/or remedies, the matter will be concluded and not subject to appeal. If all parties do not agree, the matter will proceed under a different resolution process.

3. Determination Whether Sexual Harassment Occurred

a) Standard of Evidence

The hearing officer shall use a preponderance of the evidence standard to evaluate relevant and not otherwise impermissible evidence for its persuasiveness and determine whether the alleged Policy violation occurred. The preponderance of the evidence means a standard of proof in which the totality of the evidence offered in support of a fact is greater or more convincing than the evidence which is offered in opposition to it; given the totality of information the version of events that is more likely than not to have occurred. A preponderance of the evidence is understood to require more than 50 percent certainty to determine responsibility for a Policy violation (51% or greater).

b) Questioning the Parties and Witnesses

HINU will provide a process that enables the Hearing Officer to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination, including sexual harassment.

The Hearing Officer will allow each party's Advisor of Choice to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility subject to the procedures for evaluating and limiting responses to such questions discussed below. Such questioning will never be conducted by a party personally. If a party does not have an advisor to ask questions on their behalf, the Hearing Officer will provide the party with an advisor of the Hearing Officers choice, without charge to the party, for the purpose of conducting cross-examination on behalf of that party. In those instances, the Hearing Officer will not appoint a confidential employee and may appoint, but is not required to appoint, an attorney to serve as an advisor.

Procedures for the Hearing Officer to evaluate the questions and limitations on questions:

The Hearing Officer will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The Hearing Officer will give a party an opportunity to clarify or revise a question that the Hearing Officer determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions: The Hearing Officer may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The Hearing Officer will not draw an inference about whether sex discrimination occurred based solely on a party's or witness's refusal to respond to such questions.

4. Outcome of the Complaint (Formal Resolution Process)

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the Hearing Officer will notify the parties simultaneously in writing of the determination whether sex discrimination, including sexual harassment occurred under this Policy including:

- A description of the alleged sex discrimination;

- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- The Hearing Officer's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex discrimination occurred;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions HINU imposes on the respondent, and whether remedies designed to restore or preserve equal access to HINU's education program or activity will be provided by HINU to the complainant;
- HINU's procedures and permissible bases for the complainant and respondent to appeal; and
- Provide all parties the right to a meeting with a HINU official to explain the outcome, accompanied by their Advisor of Choice and/or their parents or guardians.

HINU will not impose discipline on a respondent for sex discrimination prohibited by this Policy unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.

If there is a determination that sex discrimination occurred, as appropriate, the HINU Sexual Misconduct Response & Prevention Coordinator will:

- Coordinate the provision and implementation of remedies to a complainant and other people HINU identifies as having had equal access to HINU's education program or activity limited or denied by sex 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 that sex discrimination does not continue or reoccur within HINU's education program or activity.

The determination regarding responsibility becomes final either on the date that HINU provides the parties with the written determination of the result of the appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

G. Sanctions and Remedies

Sanctions are intended to provide educational opportunities and accountability while also reducing the likelihood of future prohibited conduct. Sanctions may include administrative, educational, and restorative components. Some conduct, however, is so egregious in nature or so damaging to the educational environment that it requires more severe sanctions, including suspension or dismissal. Remedies are designed to restore or preserve equal access to HINU's education program or activity for the complainant.

If there is a finding of responsibility for violation of this Policy, the determination of sanctions and remedies will be made by the hearing officer.

The following are types of sanctions that may be imposed, individually or in various combinations, on any **student** found in violation of the Policy. For full definitions, refer to the *Haskell Community Standards: The Conduct Code*:

- Status Sanctions:
 - **Warning**
 - **Conduct Probation**
 - **Suspension**
 - **Expulsion**

- Additional Sanctions: The following may be given in conjunction with any of the above:
 - **Loss of Campus Housing**
 - **Loss of Privileges**
 - **Restitution**
 - **Educational Initiatives**
 - **No Contact Order**
 - **No Trespass Order**

H. Appeals

The complainant and the respondent have equal rights to a fair and impartial appeal for a complaint dismissal, or any allegations therein, or a determination made through a formal resolution process. All appeals will be referred to an Appeal Officer. The Appeal Officer will not have served as an Investigator or Hearing Officer in the previous steps of the process for the applicable case. The deadline for filing a written appeal is seven business days from the date the parties are provided the written determination. All appeals must be submitted in writing to the HINU Sexual Misconduct Response & Prevention Coordinator at: campusadvocate@haskell.edu

If either party files an appeal, the HINU Sexual Misconduct Response & Prevention Coordinator will notify the other party in writing and allow both parties to submit a written statement.

HINU will offer an appeal from a dismissal or determination whether sex discrimination, including sex-based harassment occurred on the following bases:

- Procedural irregularity that affected the outcome;
- New evidence that could affect the outcome and that was not reasonably available when the determination or dismissal was made; and
- The HINU Sexual Misconduct Response & Prevention Coordinator, investigator, or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome.

If a party appeals a dismissal or determination whether sex discrimination occurred, HINU will:

- Notify the other party in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the Appeal Officer for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the Appeal Officer has been trained consistent with this Policy;
- Communicate to the parties in writing that HINU will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties simultaneously in writing of the result of the appeal and the rationale for the result.

The Appeal Officer may decide to uphold the original determination or to reopen the case for additional proceedings or other action based on the process under appeal and the ground.

VIII. POLICY INFORMATION

A. Record-Keeping

By law, HINU will maintain for a period of at least **seven years**:

- All intake reports/complaints from the date the actual intake report/complaint was filed;
- All information obtained regarding an intake report/complaint as part of each investigation under this Policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript; any sanctions and/or remedies; any appeal, including the result of the appeal; and any alternative dispute resolution and the result therefrom.
- Any information regarding any action taken, including supportive measures, in response to a report or formal complaint of sexual harassment, including the basis for its conclusion that its response was not deliberately indifferent and the measures taken to restore or preserve equal access to Haskell's education programs and activities. If a complainant was not provided with supportive measures, documentation of the reasons why such a response was not clearly unreasonable in light of the known circumstances.
- All materials used to provide training under this Policy (HINU will make these training materials publicly available on its website).
- Documents or materials obtained or created by HINU during the ADR process.

Student Records created or maintained by HINU, are subject to BIE regulations on the maintenance and control of student records in bureau schools at 25 CFR Part 43, as well as the Privacy Act of 1974 ("Privacy Act"), 5 U.S.C. §552a, and the Department of the Interior's implementing regulations at 43 CFR Part 2.

B. Disability Accommodations and Interpretive Services

By federal law, a person with a disability may request accommodation through the Student Accessibility Support Services Coordinator. The Student Accessibility Support Services Coordinator will assist with the request and notify the appropriate parties.

Tommaney Library Room 111
(785) 832-6607
lmann@haskell.edu

Students who require interpretive services should request translation services from the HINU Advocate Coordinator.

C. Revision and Interpretation

The Policy is to be maintained and updated by the HINU Sexual Misconduct Response & Prevention Coordinator. HINU reserves the right to review and update the Policy in accordance with changing legal requirements and specific needs of the University. Any questions of interpretation regarding the Policy shall be referred to the HINU Sexual Misconduct Response & Prevention Coordinator. The HINU Sexual Misconduct Response & Prevention Coordinator interpretation determination is final. However, an individual may file a complaint with the U.S. Department of the Interior, Office of Civil Rights based on an allegation that the interpretation that this Policy discriminates on the basis of sex.

All reports received by HINU after the Policy approval date will be administered in accordance with the procedures described under this Policy.

IX. COMPLAINTS AGAINST HINU FOR VIOLATIONS OF PROCEDURES UNDER THIS POLICY

Pursuant to Executive Order 13160, any individual who believes they, or any specific class of individuals, have been subjected to discrimination prohibited by this Policy may by themselves or by a representative file with the DOI Office of Civil Rights a written complaint against HINU for a failure to comply with this Policy. Complaints against HINU made to the Office of Civil Rights must be filed within 180 days of the alleged discrimination, unless the time limit is extended by the Office. Please consult [373 DM 8 - Procedures for Processing Complaints Under Executive Order 13160 \(doi.gov\)](#) for the procedure to follow when filing a sex discrimination complaint against HINU.

U.S. Department of the Interior, Office of Civil Rights

Director of the Public Civil Rights Division
Office of Civil Rights
U.S. Department of the Interior Washington, DC 20240
Email: DOICivilRights@ios.doi.gov
Website: <https://www.doi.gov/pmb/eeo/public-civil-rights-division>